(123rd General Assembly)
(House Bill Number 471)

AN ACT

To amend sections 9.55, 101.39, 109.65, 109.85, 109.86, 117.10, 117.45, 121.37, 121.40, 122.16, 122.19, 122.23, 123.01, 124.11, 124.14, 124.324, 125.30, 126.07, 131.11, 131.41, 135.81, 135.96, 145.27, 149.43, 153.39, 169.02, 169.03, 169.08, 173.03, 173.17, 173.35, 173.40, 176.05, 307.01, 307.441, 307.98, 329.01, 329.02, 329.021, 329.022, 329.023, 329.03, 329.041, 329.042, 329.051, 329.07, 329.10, 329.12, 329.14, 331.02, 331.06, 742.41, 1347.08, 1553.10, 1701.86, 1702.47, 1703.17, 1729.55, 1743.05, 1751.01, 1751.11, 1751.12, 1751.13, 1751.20, 1751.31, 1925.04, 1925.13, 1925.18, 2101.11, 2101.16, 2113.06, 2151.152, 2151.232, 2151.281, 2151.353, 2151.36, 2151.39, 2151.412, 2151.413, 2151.416, 2151.421, 2151.43, 2151.49, 2151.86, 2301.35, 2301.356, 2301.358, 2301.36, 2301.37, 2301.371, 2301.372, 2301.373, 2301.374, 2301.375, 2301.43, 2305.26, 2317.56, 2705.031, 2715.041, 2715.045, 2716.13, 2744.05, 2913.40, 2949.26, 2950.11, 2950.13, 2951.02, 2953.51, 3101.01, 3107.013, 3107.031, 3107.032, 3107.051, 3107.062, 3107.063, 3107.064, 3107.065, 3107.071, 3107.081, 3107.082, 3107.083, 3107.09, 3107.091, 3107.10, 3107.12, 3107.13, 3107.141, 3107.17, 3107.39, 3109.05, 3109.15, 3109.16, 3109.18, 3109.401, 3111.03, 3111.06, 3111.07, 3111.09, 3111.20, 3111.21, 3111.211, 3111.22, 3111.23, 3111.231, 3111.24, 3111.25, 3111.27, 3111.99, 3113.04, 3113.07, 3113.09, 3113.16, 3113.21, 3113.211, 3113.212, 3113.213, 3113.214, 3113.215, 3113.216, 3113.99, 3115.21, 3115.31, 3301.15,

3301.32, 3301.53, 3301.57, 3301.581, 3301.59, 3304.231, 3307.21, 3309.22, 3313.714, 3313.715, 3314.08, 3317.029, 3317.06, 3317.064, 3317.10, 3319.089, 3321.18, 3323.021, 3331.04, 3335.24, 3354.21, 3501.01, 3599.45, 3701.023, 3701.241, 3701.78, 3701.80, 3702.55, 3702.74, 3705.07, 3705.09, 3705.091, 3705.10, 3721.011, 3721.022, 3721.071, 3721.08, 3721.12, 3721.14, 3721.15, 3721.19, 3721.51, 3721.511, 3721.52, 3721.53, 3721.54, 3721.55, 3721.56, 3721.57, 3721.58, 3722.04, 3722.15, 3722.16, 3724.12, 3727.13, 3727.17, 3729.02, 3729.11, 3729.14, 3729.18, 3729.21, 3729.24, 3729.26, 3729.61, 3733.49, 3737.22, 3737.65, 3750.02, 3770.071, 3781.06, 3781.10, 3793.051, 3793.07, 3793.15, 3923.50, 3924.42, 3924.47, 3929.721, 4109.01, 4109.05, 4109.08, 4109.11, 4109.12, 4109.13, 4109.21, 4111.01, 4111.03, 4111.04, 4111.05, 4111.06, 4111.07, 4111.08, 4111.09, 4111.10, 4111.13, 4111.17, 4111.25, 4111.26, 4111.27, 4111.28, 4111.29, 4111.30, 4112.02, 4115.03, 4115.031, 4115.032, 4115.034, 4115.04, 4115.05, 4115.07, 4115.071, 4115.08, 4115.09, 4115.10, 4115.101, 4115.12, 4115.13, 4115.131, 4115.132, 4115.133, 4115.14, 4115.15, 4115.16, 4115.32, 4121.69, 4123.038, 4123.27, 4123.56, 4123.62, 4141.01, 4141.031, 4141.044, 4141.07, 4141.09, 4141.11, 4141.131, 4141.14, 4141.17, 4141.18, 4141.20, 4141.23, 4141.231, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, 4141.27, 4141.29, 4141.30, 4141.301, 4141.31, 4141.321, 4141.33, 4141.35, 4141.38, 4141.39, 4141.40, 4141.41, 4141.42, 4141.43, 4141.431, 4141.47, 4167.02, 4167.06, 4167.08, 4167.09, 4167.10, 4167.11, 4167.12, 4167.14, 4167.15, 4167.16, 4167.17, 4167.19, 4303.292, 4582.37, 4731.71, 5101.03, 5101.071, 5101.072, 5101.11, 5101.111, 5101.14, 5101.141, 5101.142, 5101.143,

.15, 5101.16, 5101.161, 5101.162, 5101.18, 5101.181, 5101.182, 5101.183, 5101.184, 5101.19, 5101.212, 5101.26, 5101.27, 5101.28, 5101.29, 5101.30, 5101.31, 5101.312, 5101.313, 5101.314, 5101.315, 5101.316, 5101.317, 5101.319, 5101.32, 5101.321, 5101.322, 5101.323, 5101.324, 5101.325, 5101.326, 5101.327, 5101.33, 5101.34, 5101.341, 5101.36, 5101.44, 5101.45, 5101.46, 5101.48, 5101.49, 5101.50, 5101.502, 5101.51, 5101.512, 5101.513, 5101,515, 5101.516, 5101.517, 5101.518, 5101.52, 5101.53, 5101.54, 5101.541, 5101.542, 5101.543, 5101.544, 5101.572, 5101.58, 5101.59, 5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.65, 5101.67, 5101.70, 5101.71, 5101.72, 5101.75, 5101.751, 5101.752, 5101.754, 5101.80, 5101.81, 5101.83, 5101.851, 5101.852, 5101.853, 5101.854, 5101.93, 5103.03, 5103.031, 5103.032, 5103.04, 5103.07, 5103.08, 5103.12, 5103.14, 5103.151, 5103.152, 5103.154, 5103.16, 5103.17, 5103.22, 5103.23, 5104.01, 5104.011, 5104.012, 5104.013, 5104.014, 5104.015, 5104.02, 5104.021, 5104.03, 5104.04, 5104.05, 5104.052, 5104.06, 5104.07, 5104.08, 5104.081, 5104.09, 5104.10, 5104.11, 5104.12, 5104.13, 5104.21, 5104.22, 5104.30, 5104.301, 5104.31, 5104.32, 5104.33, 5104.34, 5104.341, 5104.35, 5104.36, 5104.37, 5104.38, 5104.39, 5104.40, 5104.41, 5104.42, 5104.43, 5104.44, 5107.03, 5107.05, 5107.10, 5107.12, 5107.14, 5107.16, 5107.161, 5107.162, 5107.18, 5107.20, 5107.22, 5107.24, 5107.26, 5107.28, 5107.282, 5107.283, 5107.284, 5107.286, 5107.287, 5107.30, 5107.40, 5107.41, 5107.42, 5107.43, 5107.44, 5107.50, 5107.52, 5107.54, 5107.541, 5107.58, 5107.60, 5107.62, 5107.64, 5107.65, 5107.66, 5107.68, 5107.69, 5107.70, 5107.72, 5107.76, 5107.78, 5108.02, 5108.07,

5108.08, 5108.09, 5108.10, 5111.01, 5111.011, 5111.012, 5111.013, 5111.014, 5111.015, 5111.016, 5111.017, 5111.018, 5111.019, 5111.02, 5111.021, 5111.022, 5111.023, 5111.03, 5111.04, 5111.05, 5111.06, 5111.07, 5111.08, 5111.09, 5111.10, 5111.11, 5111.111, 5111.112, 5111.113, 5111.12, 5111.121, 5111.13, 5111.14, 5111.16, 5111.17, 5111.173, 5111.18, 5111.181, 5111.19, 5111.20, 5111.202, 5111.203, 5111.204, 5111.205, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.252, 5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.27, 5111.29, 5111.291, 5111.30, 5111.31, 5111.33, 5111.34, 5111.341, 5111.35, 5111.36, 5111.37, 5111.38, 5111.41, 5111.42, 5111.45, 5111.46, 5111.47, 5111.48, 5111.49, 5111.50, 5111.51, 5111.52, 5111.53, 5111.54, 5111.55, 5111.56, 5111.57, 5111.58, 5111.59, 5111.60, 5111.61, 5111.62, 5111.74, 5111.81, 5111.87, 5111.88, 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.17, 5112.18, 5112.19, 5112.21, 5112.31, 5112.32, 5112.33, 5112.34, 5112.35, 5112.37, 5112.38, 5112.39, 5112.99, 5115.01, 5115.011, 5115.012, 5115.02, 5115.03, 5115.05, 5115.061, 5115.07, 5115.10, 5115.13, 5115.15, 5115.20, 5119.221, 5120.37, 5123.01, 5123.181, 5123.191, 5123.604, 5126.31, 5139.08, 5139.34, 5139.39, 5153.01, 5153.02, 5153.10, 5153.111, 5153.121, 5153.14, 5153.15, 5153.16, 5153.163, 5153.17, 5153.20, 5153.21, 5153.22, 5153.27, 5153.29, 5153.30, 5153.32, 5153.35, 5153.36, 5153.38, 5153.49, 5153.52, 5502.01, 5505.04, 5703.21, 5709.65, 5709.67, 5733.04, 5733.33, 5747.01, 5747.121, 5747.122, and 5902.02 and to amend, for the purpose of adopting new section numbers as indicated in

parentheses, sections 4111.25 (4139.01), 4111.26 (4139.02), 4111.27 (4139.03), 4111.28 (4139.04), 4111.29 (4139.05), and 4111.30 (4139.06) of the Revised Code to replace references to the Bureau or Administrator of Employment Services with the Department or Director of Job and Family Services and the Department or Director of Commerce, to replace references to the Department or Director of Human Services with the Department or Director of Job and Family Services, to replace references to a county department of human services with the county department of job and family services, to replace references to human services with family services, and to maintain the provisions of this act on and after January 1, 2001, by amending the versions of sections 3109.15, 3109.16, and 3109.18 of the Revised Code that take effect on that date, on and after April 1, 2001, by amending the version of section 4141.14 of the Revised Code that takes effect on that date, and on and after April 1, 2002, by amending the version of section 4141.14 of the Revised Code that takes effect on that date.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 9.55, 101.39, 109.65, 109.85, 109.86, 117.10, 117.45, 121.37, 121.40, 122.16, 122.19, 122.23, 123.01, 124.11, 124.14, 124.324, 125.30, 126.07, 131.11, 131.41, 135.81, 135.96, 145.27, 149.43, 153.39, 169.02, 169.03, 169.08, 173.03, 173.17, 173.35, 173.40, 176.05, 307.01, 307.441, 307.98, 329.01, 329.02, 329.021, 329.022, 329.023, 329.03, 329.041, 329.042, 329.051, 329.07, 329.10, 329.12, 329.14, 331.02, 331.06, 742.41, 1347.08, 1553.10, 1701.86, 1702.47, 1703.17, 1729.55, 1743.05, 1751.01, 1751.11, 1751.12, 1751.13, 1751.20, 1751.31, 1925.04, 1925.13, 1925.18, 2101.11, 2101.16, 2113.06, 2151.152, 2151.232, 2151.281, 2151.353, 2151.36, 2151.39, 2151.412, 2151.413, 2151.416,

2151.421, 2151.43, 2151.49, 2151.86, 2301.35, 2301.356, 2301.358, 2301.36, 2301.37, 2301.371, 2301.372, 2301.373, 2301.374, 2301.375, 2301.43, 2305.26, 2317.56, 2705.031, 2715.041, 2715.045, 2716.13, 2744.05, 2913.40, 2949.26, 2950.11, 2950.13, 2951.02, 2953.51, 3101.01, 3107.013, 3107.031, 3107.032, 3107.051, 3107.062, 3107.063, 3107.064, 3107.065, 3107.071, 3107.081, 3107.082, 3107.083, 3107.09, 3107.091, 3107.10, 3107.12, 3107.13, 3107.141, 3107.17, 3107.39, 3109.05, 3109.15, 3109.16, 3109.18, 3109.401, 3111.03, 3111.06, 3111.07, 3111.09, 3111.20, 3111.21, 3111.211, 3111.22, 3111.23, 3111.231, 3111.24, 3111.25, 3111.27, 3111.99, 3113.04, 3113.07, 3113.09, 3113.16, 3113.21, 3113.211, 3113.212, 3113.213, 3113.214, 3113.215, 3113.216, 3113.99, 3115.21, 3115.31, 3301.15, 3301.32, 3301.53, 3301.57, 3301.581, 3301.59, 3304.231, 3307.21, 3309.22, 3313.714, 3313.715, 3314.08, 3317.029, 3317.06, 3317.064, 3317.10, 3319.089, 3321.18, 3323.021, 3331.04, 3335.24, 3354.21, 3501.01, 3599.45, 3701.023, 3701.241, 3701.78, 3701.80, 3702.55, 3702.74, 3705.07, 3705.09, 3705.091, 3705.10, 3721.011, 3721.022, 3721.071, 3721.08, 3721.12, 3721.14, 3721.15, 3721.19, 3721.51, 3721.511, 3721.52, 3721.53, 3721.54, 3721.55, 3721.56, 3721.57, 3721.58, 3722.04, 3722.15, 3722.16, 3724.12, 3727.13, 3727.17, 3729.02, 3729.11, 3729.14, 3729.18, 3729.21, 3729.24, 3729.26, 3729.61, 3733.49, 3737.22, 3737.65, 3750.02, 3770.071, 3781.06, 3781.10, 3793.051, 3793.07, 3793.15, 3923.50, 3924.42, 3924.47, 3929.721, 4109.01, 4109.05, 4109.08, 4109.11, 4109.12, 4109.13, 4109.21, 4111.01, 4111.03, 4111.04, 4111.05, 4111.06, 4111.07, 4111.08, 4111.09, 4111.10, 4111.13, 4111.17, 4111.25, 4111.26, 4111.27, 4111.28, 4111.29, 4111.30, 4112.02, 4115.03, 4115.031, 4115.032, 4115.034, 4115.04, 4115.05, 4115.07, 4115.071, 4115.08, 4115.09, 4115.10, 4115.101, 4115.12, 4115.13, 4115.131, 4115.132, 4115.133, 4115.14, 4115.15, 4115.16, 4115.32, 4121.69, 4123.038, 4123.27, 4123.56, 4123.62, 4141.01, 4141.031, 4141.044, 4141.07, 4141.09, 4141.11, 4141.131, 4141.14, 4141.17, 4141.18, 4141.20, 4141.23, 4141.231, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, 4141.27, 4141.29, 4141.30, 4141.301, 4141.31, 4141.321, 4141.33, 4141.35, 4141.38, 4141.39, 4141.40, 4141.41, 4141.42, 4141.43, 4141.431, 4141.47, 4167.02, 4167.06, 4167.08, 4167.09, 4167.10, 4167.11, 4167.12, 4167.14, 4167.15, 4167.16, 4167.17, 4167.19, 4303.292, 4582.37, 4731.71, 5101.03, 5101.071, 5101.072, 5101.11, 5101.111, 5101.14, 5101.141, 5101.142, 5101.143, 5101.15, 5101.16, 5101.161, 5101.162, 5101.18, 5101.181, 5101.182, 5101.183, 5101.184, 5101.19, 5101.212, 5101.26, 5101.27, 5101.28, 5101.29, 5101.30, 5101.31, 5101.312, 5101.313, 5101.314, 5101.315, 5101.316, 5101.317, 5101.319, 5101.32, 5101.321, 5101.322, 5101.323, 5101.324, 5101.325, 5101.326, 5101.327, 5101.33,

5101.34, 5101.341, 5101.36, 5101.44, 5101.45, 5101.46, 5101.48, 5101.49, 5101.50, 5101.502, 5101.51, 5101.512, 5101.513, 5101,515, 5101.516, 5101.517, 5101.518, 5101.52, 5101.53, 5101.54, 5101.541, 5101.542, 5101.543, 5101.544, 5101.572, 5101.58, 5101.59, 5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.65, 5101.67, 5101.70, 5101.71, 5101.72, 5101.75, 5101.751, 5101.752, 5101.754, 5101.80, 5101.81, 5101.83, 5101.851, 5101.852, 5101.853, 5101.854, 5101.93, 5103.03, 5103.031, 5103.032, 5103.04, 5103.07, 5103.08, 5103.12, 5103.14, 5103.151, 5103.152, 5103.154, 5103.16, 5103.17, 5103.22, 5103.23, 5104.01, 5104.011, 5104.012, 5104.013, 5104.014, 5104.015, 5104.02, 5104.021, 5104.03, 5104.04, 5104.05, 5104.052, 5104.06, 5104.07, 5104.08, 5104.081, 5104.09, 5104.10, 5104.11, 5104.12, 5104.13, 5104.21, 5104.22, 5104.30, 5104.301, 5104.31, 5104.32, 5104.33, 5104.34, 5104.341, 5104.35, 5104.36, 5104.37, 5104.38, 5104.39, 5104.40, 5104.41, 5104.42, 5104.43, 5104.44, 5107.03, 5107.05, 5107.10, 5107.12, 5107.14, 5107.16, 5107.161, 5107.162, 5107.18, 5107.20, 5107.22, 5107.24, 5107.26, 5107.28, 5107.282, 5107.283, 5107.284, 5107.286, 5107.287, 5107.30, 5107.40, 5107.41, 5107.42, 5107.43, 5107.44, 5107.50, 5107.52, 5107.54, 5107.541, 5107.58, 5107.60, 5107.62, 5107.64, 5107.65, 5107.66, 5107.68, 5107.69, 5107.70, 5107.72, 5107.76, 5107.78, 5108.02, 5108.07, 5108.08, 5108.09, 5108.10, 5111.01, 5111.011, 5111.012, 5111.013, 5111.014, 5111.015, 5111.016, 5111.017, 5111.018, 5111.019, 5111.02, 5111.021, 5111.022, 5111.023, 5111.03, 5111.04, 5111.05, 5111.06, 5111.07, 5111.08, 5111.09, 5111.10, 5111.11, 5111.111, 5111.112, 5111.113, 5111.12, 5111.121, 5111.13, 5111.14, 5111.16, 5111.17, 5111.173, 5111.18, 5111.181, 5111.19, 5111.20, 5111.202, 5111.203, 5111.204, 5111.205, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.252, 5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.27, 5111.29, 5111.291, 5111.30, 5111.31, 5111.33, 5111.34, 5111.341, 5111.35, 5111.36, 5111.37, 5111.38, 5111.41, 5111.42, 5111.45, 5111.46, 5111.47, 5111.48, 5111.49, 5111.50, 5111.51, 5111.52, 5111.53, 5111.54, 5111.55, 5111.56, 5111.57, 5111.58, 5111.59, 5111.60, 5111.61, 5111.62, 5111.74, 5111.81, 5111.87, 5111.88, 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.17, 5112.18, 5112.19, 5112.21, 5112.31, 5112.32, 5112.33, 5112.34, 5112.35, 5112.37, 5112.38, 5112.39, 5112.99, 5115.01, 5115.011, 5115.012, 5115.02, 5115.03, 5115.05, 5115.061, 5115.07, 5115.10, 5115.13, 5115.15, 5115.20, 5119.221, 5120.37, 5123.01, 5123.181, 5123.191, 5123.604, 5126.31, 5139.08, 5139.34, 5139.39, 5153.01, 5153.02, 5153.10, 5153.111, 5153.121, 5153.14, 5153.15, 5153.16, 5153.163, 5153.17, 5153.20, 5153.21, 5153.22, 5153.27, 5153.29,

5153.30, 5153.32, 5153.35, 5153.36, 5153.38, 5153.49, 5153.52, 5502.01, 5505.04, 5703.21, 5709.65, 5709.67, 5733.04, 5733.33, 5747.01, 5747.121, 5747.122, and 5902.02 be amended, and sections 4111.25 (4139.01), 4111.26 (4139.02), 4111.27 (4139.03), 4111.28 (4139.04), 4111.29 (4139.05), and 4111.30 (4139.06) of the Revised Code be amended for the purpose of adopting new section numbers as indicated in parentheses, to read as follows:

Sec. 9.55. (A) As used in this section, "state agency" means the house of representatives, the senate, the governor, the secretary of state, the auditor of state, the treasurer of state, the attorney general, the department of ~~human services, the bureau of employment~~ job and family services, the department of commerce the department of mental retardation and developmental disabilities, the department of education, the department of health, the department of aging, the governor's office of advocacy for disabled persons, and the civil rights commission.

(B) Each state agency shall install in its offices at least one teletypewriter designed to receive printed messages from and transmit printed messages to deaf or hearing-impaired persons.

Sec. 101.39. (A) There is hereby created the joint legislative committee on health care oversight. The committee may review or study any matter related to the provision of health care services that it considers of significance to the citizens of this state, including the availability of health care, the quality of health care, the effectiveness and efficiency of managed care systems, and the operation of the medical assistance program established under Chapter 5111. of the Revised Code or other government health programs.

The department of ~~human~~ job and family services, department of health, department of aging, department of mental health, department of mental retardation and developmental disabilities, department of alcohol and drug addiction services, and other state agencies shall cooperate with the committee in its study and review of health care issues. On request, the departments shall provide the committee with reports and other information sufficient for the committee to fulfill its duties.

The committee may issue recommendations as it determines appropriate. The recommendations may be made to the general assembly, state agencies, private industry, or any other entity.

(B) The committee shall consist of the following members of the general assembly: the chairperson of the senate's standing committee with primary responsibility for health legislation, the chairperson of the house of representatives' standing committee with primary responsibility for health

legislation, four members of the house of representatives appointed by the speaker of the house of representatives, and four members of the senate appointed by the president of the senate. Not more than two members appointed by the speaker of the house of representatives and not more than two members appointed by the president of the senate may be of the same political party. Except in 1995, appointments shall be made not later than fifteen days after the commencement of the first regular session of each general assembly. The chairpersons of the standing committees with primary responsibility for health legislation shall serve as co-chairpersons of the committee.

Each member of the committee shall hold office during the general assembly in which the member is appointed and until a successor has been appointed, notwithstanding the adjournment sine die of the general assembly in which the member was appointed or the expiration of the member's term as a member of the general assembly. Any vacancies occurring among the members of the committee shall be filled in the manner of the original appointment.

The committee shall meet at least quarterly and at the call of the co-chairpersons. The co-chairpersons shall determine the time, place, and agenda for each meeting of the committee.

The committee has the same powers as other standing or select committees of the general assembly. The committee may request assistance from the legislative service commission and the legislative budget office of the legislative service commission.

Sec. 109.65. (A) As used in this section, "minor," "missing child," and "missing children" have the same meanings as in section 2901.30 of the Revised Code.

(B) There is hereby created within the office of the attorney general the missing children clearinghouse. The attorney general shall administer the clearinghouse. The clearinghouse is established as a central repository of information to coordinate and improve the availability of information regarding missing children, which information shall be collected and disseminated by the clearinghouse to assist in the location of missing children. The clearinghouse shall act as an information repository separate from and in addition to law enforcement agencies within this state.

(C) The missing children clearinghouse may perform any of the following functions:

(1) The establishment of services to aid in the location of missing children that include, but are not limited to, any of the following services:

(a) Assistance in the preparation and dissemination of flyers identifying

and describing missing children and their abductors;

(b) The development of informational forms for the reporting of missing children that may be used by parents, guardians, and law enforcement officials to facilitate the location of a missing child;

(c) The provision of assistance to public and private organizations, boards of education, nonpublic schools, preschools, child care facilities, and law enforcement agencies in planning and implementing voluntary programs to fingerprint children.

(2) The establishment and operation of a toll-free telephone line for supplemental reports of missing children and reports of sightings of missing children;

(3) Upon the request of any person or entity and upon payment of any applicable fee established by the attorney general under division (H) of this section, the provision to the person or entity who makes the request of a copy of any information possessed by the clearinghouse that was acquired or prepared pursuant to division (E)(3) of this section;

(4) The performance of liaison services between individuals and public and private agencies regarding procedures for handling and responding to missing children reports;

(5) The participation as a member in any networks of other missing children centers or clearinghouses;

(6) The creation and operation of an intrastate network of communication designed for the speedy collection and processing of information concerning missing children.

(D) If a board of education is notified by school personnel that a missing child is attending any school under the board's jurisdiction, or if the principal or chief administrative officer of a nonpublic school is notified by school personnel that a missing child is attending that school, the board or the principal or chief administrative officer immediately shall give notice of that fact to the missing children clearinghouse and to the law enforcement agency with jurisdiction over the area where the missing child resides.

(E)(1) The attorney general, in cooperation with the department of ~~human~~ job and family services, shall establish a "missing child educational program" within the missing children clearinghouse that shall perform the functions specified in divisions (E)(1) to (3) of this section. The program shall operate under the supervision and control of the attorney general in accordance with procedures that the attorney general shall develop to implement divisions (E)(1) to (3) of this section. The attorney general shall cooperate with the department of education in developing and disseminating information acquired or prepared pursuant to division (E)(3) of this section.

(2) Upon the request of any board of education in this state or any nonpublic school in this state, the missing child educational program shall provide to the board or school a reasonable number of copies of the information acquired or prepared pursuant to division (E)(3) of this section.

Upon the request of any board of education in this state or any nonpublic school in this state that, pursuant to section 3313.96 of the Revised Code, is developing an information program concerning missing children issues and matters, the missing child educational program shall provide to the board or nonpublic school assistance in developing the information program. The assistance may include, but is not limited to, the provision of any or all of the following:

(a) If the requesting entity is a board of education of a school district, sample policies on missing and exploited children issues to assist the board in complying with section 3313.205 of the Revised Code;

(b) Suggested safety curricula regarding missing children issues, including child safety and abduction prevention issues;

(c) Assistance in developing, with local law enforcement agencies, prosecuting attorneys, boards of education, school districts, and nonpublic schools, cooperative programs for fingerprinting children;

(d) Other assistance to further the goals of the program.

(3) The missing child educational program shall acquire or prepare informational materials relating to missing children issues and matters. These issues and matters include, but are not limited to, the following:

(a) The types of missing children;

(b) The reasons why and how minors become missing children, the potential adverse consequences of a minor becoming a missing child, and, in the case of minors who are considering running away from home or from the care, custody, and control of their parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or another person responsible for them, alternatives that may be available to address their concerns and problems;

(c) Offenses under federal law that could relate to missing children and other provisions of federal law that focus on missing children;

(d) Offenses under the Revised Code that could relate to missing children, including, but not limited to, kidnapping, abduction, unlawful restraint, child stealing, interference with custody, endangering children, domestic violence, abuse of a child and contributing to the dependency, neglect, unruliness, or delinquency of a child, sexual offenses, drug offenses, prostitution offenses, and obscenity offenses, and other provisions of the Revised Code that could relate to missing children;

(e) Legislation being considered by the general assembly, legislatures of other states, the congress of the United States, and political subdivisions in this or any other state to address missing children issues;

(f) Sources of information on missing children issues;

(g) State, local, federal, and private systems for locating and identifying missing children;

(h) Law enforcement agency programs, responsibilities, and investigative techniques in missing children matters;

(i) Efforts on the community level in this and other states, concerning missing children issues and matters, by governmental entities and private organizations;

(j) The identification of private organizations that, among their primary objectives, address missing children issues and matters;

(k) How to avoid becoming a missing child and what to do if one becomes a missing child;

(l) Efforts that schools, parents, and members of a community can undertake to reduce the risk that a minor will become a missing child and to quickly locate or identify a minor if he becomes a missing child, including, but not limited to, fingerprinting programs.

(F) Each year the missing children clearinghouse shall issue a report describing its performance of the functions specified in division (E) of this section and shall provide a copy of the report to the speaker of the house of representatives, the president of the senate, the governor, the superintendent of the bureau of criminal identification and investigation, and the director of ~~human~~ job and family services.

(G) Any state agency or political subdivision of this state that operates a missing children program or a clearinghouse for information about missing children shall coordinate its activities with the missing children clearinghouse.

(H) The attorney general shall determine a reasonable fee to be charged for providing to any person or entity other than a state or local law enforcement agency of this or any other state, a law enforcement agency of the United States, a board of education of a school district in this state, a nonpublic school in this state, a governmental entity in this state, or a public library in this state, pursuant to division (A)(3) of this section, copies of any information acquired or prepared pursuant to division (E)(3) of this section. The attorney general shall collect the fee prior to sending or giving copies of any information to any person or entity for whom or which this division requires the fee to be charged and shall deposit the fee into the missing children fund created by division (I) of this section.

(I) There is hereby created in the state treasury the missing children fund that shall consist of all moneys awarded to the state by donation, gift, or bequest, all other moneys received for purposes of this section, and all fees collected pursuant to this section or section 109.64 of the Revised Code. The attorney general shall use the moneys in the missing children fund only for purposes of the office of the attorney general acquiring or preparing information pursuant to division (E)(3) of this section.

(J) The failure of the missing children clearinghouse to undertake any function or activity authorized in this section does not create a cause of action against the state.

Sec. 109.85. (A) Upon the written request of the governor, the general assembly, the auditor of state, the director of ~~human~~ job and family services, the director of health, or the director of budget and management, or upon the attorney general's becoming aware of criminal or improper activity related to Chapter 3721. and the medical assistance program established under section 5111.01 of the Revised Code, the attorney general shall investigate any criminal or civil violation of law related to Chapter 3721. of the Revised Code or the medical assistance program.

(B) When it appears to the attorney general, as a result of an investigation under division (A) of this section, that there is cause to prosecute for the commission of a crime or to pursue a civil remedy, ~~he~~ the attorney general may refer the evidence to the prosecuting attorney having jurisdiction of the matter, or to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or ~~he~~ the attorney general may initiate and prosecute any necessary criminal or civil actions in any court or tribunal of competent jurisdiction in this state. When proceeding under this section, the attorney general, and any assistant or special counsel designated by ~~him~~ the attorney general for that purpose, have all rights, privileges, and powers of prosecuting attorneys. The attorney general shall have exclusive supervision and control of all investigations and prosecutions initiated by ~~him~~ the attorney general under this section. The forfeiture provisions of sections 2933.71 to 2933.75 of the Revised Code apply in relation to any such criminal action initiated and prosecuted by the attorney general.

(C) Nothing in this section shall prevent a county prosecuting attorney from investigating and prosecuting criminal activity related to Chapter 3721. of the Revised Code and the medical assistance program established under section 5111.01 of the Revised Code. The forfeiture provisions of sections 2933.71 to 2933.75 of the Revised Code apply in relation to any prosecution

of criminal activity related to the medical assistance program undertaken by the prosecuting attorney.

Sec. 109.86. (A) The attorney general shall investigate any activity ~~he~~ the attorney general has reasonable cause to believe is in violation of section 2903.34 of the Revised Code. Upon written request of the governor, the general assembly, the auditor of state, or the director of health, ~~human~~ job and family services, aging, mental health, or mental retardation and developmental disabilities, the attorney general shall investigate any activity these persons believe is in violation of section 2903.34 of the Revised Code. If after an investigation the attorney general has probable cause to prosecute for the commission of a crime, ~~he~~ the attorney general shall refer the evidence to the prosecuting attorney, director of law, or other similar chief legal officer having jurisdiction over the matter. If the prosecuting attorney decides to present the evidence to a grand jury, ~~he~~ the prosecuting attorney shall notify the attorney general in writing of the decision within thirty days after referral of the matter and shall present the evidence prior to the discharge of the next regular grand jury. If the director of law or other chief legal officer decides to prosecute the case, ~~he~~ the director or officer shall notify the attorney general in writing of the decision within thirty days and shall initiate prosecution within sixty days after the matter was referred to ~~him~~ the director or officer.

(B) If the prosecuting attorney, director of law, or other chief legal officer fails to notify the attorney general or to present evidence or initiate prosecution in accordance with division (A) of this section, the attorney general may present the evidence to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or ~~he~~ the attorney general may initiate and prosecute any action in any court or tribunal of competent jurisdiction in this state. The attorney general, and any assistant or special counsel designated by ~~him~~ the attorney general, have all the powers of a prosecuting attorney, director of law, or other chief legal officer when proceeding under this section. Nothing in this section shall limit or prevent a prosecuting attorney, director of law, or other chief legal officer from investigating and prosecuting criminal activity committed against a resident or patient of a care facility.

Sec. 117.10. The auditor of state shall audit all public offices as provided in this chapter. The auditor of state also may audit the accounts of private institutions, associations, boards, and corporations receiving public money for their use and may require of them annual reports in such form as the auditor of state prescribes.

The auditor of state may audit the accounts of any provider as defined in section 5111.06 of the Revised Code, if requested by the ~~Ohio~~ department of ~~human~~ job and family services.

If a public office has been audited by an agency of the United States government, the auditor of state may, if satisfied that the federal audit has been conducted according to principles and procedures not contrary to those of the auditor of state, use and adopt the federal audit and report in lieu of an audit by the auditor of state's own office.

Within thirty days after the creation or dissolution or the winding up of the affairs of any public office, that public office shall notify the auditor of state in writing that this action has occurred.

Sec. 117.45. (A) The auditor of state shall draw warrants against the treasurer of state pursuant to all requests for payment that the director of budget and management has approved under section 126.07 of the Revised Code.

(B) Unless the director of ~~human~~ job and family services has provided for the making of payments by electronic benefit transfer, if a financial institution and account have been designated by the participant or recipient, payment by the auditor of state to a participant in the Ohio works first program pursuant to Chapter 5107. of the Revised Code or a recipient of disability assistance pursuant to Chapter 5115. of the Revised Code shall be made by direct deposit to the account of the participant or recipient in the financial institution. Payment by the auditor of state to a recipient of benefits distributed through the medium of electronic benefit transfer pursuant to section 5101.33 of the Revised Code shall be by electronic benefit transfer. Payment by the auditor of state as compensation to an employee of the state who has, pursuant to section 124.151 of the Revised Code, designated a financial institution and account for the direct deposit of such payments shall be made by direct deposit to the account of the employee. Payment to any other payee who has designated a financial institution and account for the direct deposit of such payment may be made by direct deposit to the account of the payee in the financial institution as provided in section 9.37 of the Revised Code. The auditor of state shall contract with an authorized financial institution for the services necessary to make direct deposits or electronic benefit transfers under this division and draw lump sum warrants payable to that institution in the amount to be transferred. Accounts maintained by the auditor of state or the auditor of state's agent in a financial institution for the purpose of effectuating payment by direct deposit or electronic benefit transfer shall be maintained in accordance with section 135.18 of the Revised Code.

(C) All other payments from the state treasury shall be made by paper warrants or by direct deposit payable to the respective payees. The auditor of state may mail the paper warrants to the respective payees or distribute them through other state agencies, whichever the auditor of state determines to be the better procedure.

(D) If the average per transaction cost the auditor of state incurs in making direct deposits for a state agency exceeds the average per transaction cost the auditor of state incurs in drawing paper warrants for all public offices during the same period of time, the auditor of state may certify the difference in cost and the number of direct deposits for the agency to the director of administrative services. The director shall reimburse the auditor of state for such additional costs and add the amount to the processing charge assessed upon the state agency.

Sec. 121.37. (A)(1) There is hereby created the Ohio family and children first cabinet council. The council shall be composed of the superintendent of public instruction and the directors of youth services, ~~human~~ job and family services, mental health, health, alcohol and drug addiction services, mental retardation and developmental disabilities, and budget and management. The chairperson of the council shall be the governor or the governor's designee and shall establish procedures for the council's internal control and management.

(2) The purpose of the cabinet council is to help families seeking government services. This section shall not be interpreted or applied to usurp the role of parents, but solely to streamline and coordinate existing government services for families seeking assistance for their children.

In seeking to fulfill its purpose, the council may do any of the following:

(a) Advise and make recommendations to the governor and general assembly regarding the provision of services to children;

(b) Advise and assess local governments on the coordination of service delivery to children;

(c) Hold meetings at such times and places as may be prescribed by the council's procedures and maintain records of the meetings, except that records identifying individual children are confidential and shall be disclosed only as provided by law;

(d) Develop programs and projects, including pilot projects, to encourage coordinated efforts at the state and local level to improve the state's social service delivery system;

(e) Enter into contracts with and administer grants to county family and children first councils, as well as other county or multicounty organizations

to plan and coordinate service delivery between state agencies and local service providers for families and children;

(f) Enter into contracts with and apply for grants from federal agencies or private organizations;

(g) Enter into interagency agreements to encourage coordinated efforts at the state and local level to improve the state's social service delivery system. The agreements may include provisions regarding the receipt, transfer, and expenditure of funds.

(3) The cabinet council shall provide for the following:

(a) Reviews of service and treatment plans for children for which such reviews are requested;

(b) Assistance as the council determines to be necessary to meet the needs of children referred by county family and children first councils;

(c) Monitoring and supervision of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Education of the Handicapped Act Amendments of 1986," 100 Stat. 1145 (1986), 20 U.S.C.A. 1471, as amended.

(B)(1) Each county shall establish a county family and children first council. A county may invite any local public or private agency or group that funds, advocates, or provides services to children and families to have a representative become a permanent or temporary member of its county council. Each county council must include the following individuals:

(a) At least three individuals whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.

(b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.

(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.

(d) The director of the county department of ~~human~~ job and family services;

(e) The executive director of the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code;

(f) The superintendent of the county board of mental retardation and developmental disabilities;

(g) The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service;

(h) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each county of its determination at least biennially;

(i) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;

(j) A representative of the municipal corporation with the largest population in the county;

(k) The chair of the board of county commissioners, or an individual designated by the board;

(l) A representative of the regional office of the department of youth services;

(m) A representative of the county's head start agencies, as defined in section 3301.31 of the Revised Code;

(n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986";

(o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.

Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service coordination mechanism implemented pursuant to division (C) of this section.

The cabinet council shall establish a state appeals process to resolve disputes among the members of a county council concerning whether reasonable responsibilities as members are being shared. The appeals process may be accessed only by a majority vote of the council members

who are required to serve on the council. Upon appeal, the cabinet council may order that state funds for services to children and families be redirected to a county's board of county commissioners.

(2) A county council shall provide for the following:

(a) Referrals to the cabinet council of those children for whom the county council cannot provide adequate services;

(b) Development and implementation of a process that annually evaluates and prioritizes services, fills service gaps where possible, and invents new approaches to achieve better results for families and children;

(c) Participation in the development of a countywide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Education of the Handicapped Act Amendments of 1986";

(d) Maintenance of an accountability system to monitor the county council's progress in achieving results for families and children;

(e) Establishment of a mechanism to ensure ongoing input from a broad representation of families who are receiving services within the county system.

(3)(a) Except as provided in division (B)(3)(b) of this section, a county council shall comply with the policies, procedures, and activities prescribed by the rules or interagency agreements of a state department participating on the cabinet council whenever the county council performs a function subject to those rules or agreements.

(b) On application of a county council, the cabinet council may grant an exemption from any rules or interagency agreements of a state department participating on the council if an exemption is necessary for the council to implement an alternative program or approach for service delivery to families and children. The application shall describe the proposed program or approach and specify the rules or interagency agreements from which an exemption is necessary. The cabinet council shall approve or disapprove the application in accordance with standards and procedures it shall adopt. If an application is approved, the exemption is effective only while the program or approach is being implemented, including a reasonable period during which the program or approach is being evaluated for effectiveness.

(4) Each county council shall designate an administrative agent for the council from among the following public entities: the board of alcohol, drug addiction, and mental health services, including a board of alcohol and drug addiction or a community mental health board if the county is served by

separate boards; the board of county commissioners; any board of health of the county's city and general health districts; the county department of ~~human~~ job and family services; the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code; the county board of mental retardation and developmental disabilities; any of the county's boards of education or governing boards of educational service centers; or the county's juvenile court. Any of the foregoing public entities, other than the board of county commissioners, may decline to serve as the council's administrative agent.

A county council's administrative agent shall serve as the council's appointing authority. The council shall file an annual budget with its administrative agent, with copies filed with the county auditor and with the board of county commissioners, unless the board is serving as the council's administrative agent. The council's administrative agent shall ensure that all expenditures are handled in accordance with policies, procedures, and activities prescribed by state departments in rules or interagency agreements that are applicable to the council's functions.

The administrative agent for a county council may do any of the following on behalf of the council:

(a) Enter into agreements or administer contracts with public or private entities to fulfill specific council business. Such agreements and contracts are exempt from the competitive bidding requirements of section 307.86 of the Revised Code if they have been approved by the county council and they are for the purchase of family and child welfare or child protection services or other social or ~~human~~ job and family services for families and children. The approval of the county council is not required to exempt agreements or contracts entered into under section 5139.34, 5139.41, or 5139.43 of the Revised Code from the competitive bidding requirements of section 307.86 of the Revised Code.

(b) As determined by the council, provide financial stipends, reimbursements, or both, to family representatives for expenses related to council activity;

(c) Receive by gift, grant, devise, or bequest any moneys, lands, or other property for the purposes for which the council is established. The agent shall hold, apply, and dispose of the moneys, lands, or other property according to the terms of the gift, grant, devise, or bequest. Any interest or earnings shall be treated in the same manner and are subject to the same terms as the gift, grant, devise, or bequest from which it accrues.

(5) Two or more county councils may enter into an agreement to administer their county councils jointly by creating a regional family and

children first council. A regional council possesses the same duties and authority possessed by a county council, except that the duties and authority apply regionally rather than to individual counties. Prior to entering into an agreement to create a regional council, the members of each county council to be part of the regional council shall meet to determine whether all or part of the members of each county council will serve as members of the regional council.

(6) A board of county commissioners may approve a resolution by a majority vote of the board's members that requires the county council to submit a statement to the board each time the council proposes to enter into an agreement, adopt a plan, or make a decision, other than a decision pursuant to section 121.38 of the Revised Code, that requires the expenditure of funds for two or more families. The statement shall describe the proposed agreement, plan, or decision.

Not later than fifteen days after the board receives the statement, it shall, by resolution approved by a majority of its members, approve or disapprove the agreement, plan, or decision. Failure of the board to pass a resolution during that time period shall be considered approval of the agreement, plan, or decision.

An agreement, plan, or decision for which a statement is required to be submitted to the board shall be implemented only if it is approved by the board.

(C) Each county shall develop a county service coordination mechanism. The mechanism shall be developed and approved with the participation of the county entities representing child welfare; mental retardation and developmental disabilities; alcohol, drug addiction, and mental health services; health; juvenile judges; education; the county family and children first council; and the county early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986." The county shall establish an implementation schedule for the mechanism. The cabinet council may monitor the implementation and administration of each county's service coordination mechanism.

Each mechanism shall include all of the following:

(1) A procedure for assessing the needs of any child, including a child who is an abused, neglected, dependent, unruly, or delinquent child and under the jurisdiction of the juvenile court or a child whose parent or custodian is voluntarily seeking services;

(2) A procedure for assessing the service needs of the family of any child, including a child who is an abused, neglected, dependent, unruly, or

delinquent child and under the jurisdiction of the juvenile court or a child whose parent or custodian is voluntarily seeking services;

(3) A procedure for development of a comprehensive joint service plan designating service responsibilities among the various state and local agencies that provide services to children and their families, including children who are abused, neglected, dependent, unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services;

(4) A local dispute resolution process to serve as the process that must be used first to resolve disputes among the agencies represented on the county council concerning the provision of services to children, including children who are abused, neglected, dependent, unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services. The local dispute resolution process shall comply with section 121.38 of the Revised Code. The cabinet council shall adopt rules in accordance with Chapter 119. of the Revised Code establishing an administrative review process to address problems that arise concerning the operation of a local dispute resolution process.

Sec. 121.40. (A) There is hereby created the governor's community service council consisting of twenty-one members including the superintendent of public instruction or the superintendent's designee, the chancellor of the Ohio board of regents or the chancellor's designee, the director of natural resources or the director's designee, the director of youth services or the director's designee, the director of aging or the director's designee, the director of ~~human~~ job and family services or the director's designee, the chairperson of the committee of the house of representatives dealing with education or the chairperson's designee, the chairperson of the committee of the senate dealing with education or the chairperson's designee, and thirteen members who shall be appointed by the governor with the advice and consent of the senate and who shall serve terms of office of three years. The appointees shall include educators, including teachers and administrators; representatives of youth organizations; students and parents; representatives of organizations engaged in volunteer program development and management throughout the state, including youth and conservation programs; and representatives of business, government, nonprofit organizations, social service agencies, veterans organizations, religious organizations, or philanthropies that support or encourage volunteerism within the state. Members of the council shall receive no compensation, but shall be reimbursed for actual and necessary expenses

incurred in the performance of their official duties.

(B) The council shall appoint an executive director for the council, who shall be in the unclassified civil service. The executive director shall supervise the council's activities and report to the council on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the council.

The responsibilities assigned to the executive director do not relieve the members of the council from final responsibility for the proper performance of the requirements of this division.

(C) The council or its designee shall do all of the following:

(1) Employ, promote, supervise, and remove all employees as needed in connection with the performance of its duties under this section and may assign duties to those employees as necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of any employee of the council. Personnel employed by the council who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter. Nothing in this chapter shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) Maintain its office in Columbus, and may hold sessions at any place within the state;

(3) Acquire facilities, equipment, and supplies necessary to house the council, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses. For that purpose, the council shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the council and its staff in the discharge of any duty imposed upon the council by law. The council shall not delegate any authority to obligate funds.

(4) Pay its own payroll and other operating expenses from line items designated by the general assembly;

(5) Retain its fiduciary responsibility as appointing authority. Any transaction instructions shall be certified by the appointing authority or its designee.

(6) Establish the overall policy and management of the council in accordance with this chapter;

(7) Assist in coordinating and preparing the state application for funds under sections 101 to 184 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 12411 to 12544, and amendments thereto, assist in administering and overseeing the "National and Community Service Trust Act of 1993," P.L. 103-82, 107 Stat. 785, and the americorps program in this state, and assist in developing objectives for a comprehensive strategy to encourage and expand community service programs throughout the state;

(8) Assist the state board of education, school districts, the board of regents, and institutions of higher education in coordinating community service education programs through cooperative efforts between institutions and organizations in the public and private sectors;

(9) Assist the departments of natural resources, youth services, aging, and ~~human~~ job and family services in coordinating community service programs through cooperative efforts between institutions and organizations in the public and private sectors;

(10) Suggest individuals and organizations that are available to assist school districts, institutions of higher education, and the departments of natural resources, youth services, aging, and ~~human~~ job and family services in the establishment of community service programs and assist in investigating sources of funding for implementing such programs;

(11) Assist in evaluating the state's efforts in providing community service programs using standards and methods that are consistent with any statewide objectives for such programs and provide information to the state board of education, school districts, the board of regents, institutions of higher education, and the departments of natural resources, youth services, aging, and ~~human~~ job and family services to guide them in making decisions about these programs;

(12) Assist the state board of education in complying with section 3301.70 of the Revised Code and the board of regents in complying with division (B)(2) of section 3333.043 of the Revised Code.

(D) The department of aging shall serve as the council's fiscal agent. Beginning on July 1, 1997, whenever reference is made in any law, contract, or document to the functions of the department of youth services as fiscal agent to the council, the reference shall be deemed to refer to the department of aging. The department of aging shall have no ~~responsibilty~~ responsibility for or obligation to the council prior to July 1, 1997. Any validation, cure, right, privilege, remedy, obligation, or liability shall be retained by the council.

As used in this section, "fiscal agent" means technical support and

includes the following technical support services:

(1) Preparing and processing payroll and other personnel documents that the council executes as the appointing authority. The department of aging shall not approve any payroll or other personnel-related documents.

(2) Maintaining ledgers of accounts and reports of account balances, and monitoring budgets and allotment plans in consultation with the council. The department shall not approve any biennial budget, grant, expenditure, audit, or fiscal-related document.

(3) Performing other routine support services that the director of aging or the director's designee and the council or its designee consider appropriate to achieve efficiency.

(E) The council or its designee has the following authority and responsibility relative to fiscal matters:

(1) Sole authority to draw funds for any and all federal programs in which the council is authorized to participate;

(2) Sole authority to expend funds from their accounts for programs and any other necessary expenses the council may incur and its subgrantees may incur;

(3) Responsibility to cooperate with and inform the department of aging as fiscal agent to ensure that the department is fully apprised of all financial transactions.

The council shall follow all state procurement requirements.

The department of aging shall determine fees to be charged to the council, which shall be in proportion to the services performed for the council.

The council shall pay fees owed to the department of aging from a general revenue fund of the council or from any other fund from which the operating expenses of the council are paid. Any amounts set aside for a fiscal year for the payment of such fees shall be used only for the services performed for the council by the department of aging in that fiscal year.

Sec. 122.16. (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the

most recently available figures from the United States census bureau.

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line.

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(2) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01 of the Revised Code, and any costs incurred during the qualifying period in performing both a phase I and phase II property assessment, as defined in the rules adopted under section 3746.04 of the Revised Code, provided that the performance of the phase I and phase II property assessment resulted in the implementation of the remedy or remedial activities.

(4) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(5) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(6) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(8) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(9) "Qualifying period" means the period that begins July 1, 1996, and ends June 30, 1999.

(10) "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under the Internal Revenue Code;

(11) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the economy of the county or municipal corporation. In order for a county or municipal corporation to be designated as a situational distress area, the governing body of the county or municipal corporation shall submit a petition to the director of development in the form prescribed by the director. A county or municipal corporation may be designated as a situational distress area for a period not exceeding thirty-six months.

The petition shall include written documentation that demonstrates all of the following:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the ~~bureau~~ director of ~~employment~~ job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.

(B)(1) A taxpayer, partnership, or S corporation that has been issued, under section 3746.12 of the Revised Code, a covenant not to sue for a site by the director of environmental protection during the qualifying period may apply to the director of development, in the manner prescribed by the director, to enter into an agreement under which the applicant agrees to economically redevelop the site in a manner that will create employment opportunities and a credit will be granted to the applicant against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The

ication shall state the eligible costs associated with a voluntary action incurred by the applicant. The application shall be accompanied by proof, in a form prescribed by the director of development, that the covenant not to sue has been issued.

The applicant shall request the certified professional that submitted the no further action letter for the eligible site under section 3746.11 of the Revised Code to submit an affidavit to the director of development verifying the eligible costs associated with the voluntary action at that site.

The director shall review the applications in the order they are received. If the director determines that the applicant meets the requirements of this section, the director may enter into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. In making the determination, the director may consider the extent to which political subdivisions and other units of government will cooperate with the applicant to redevelop the eligible site. The agreement shall state the amount of the tax credit and the reporting requirements described in division (F) of this section.

(2) The maximum annual amount of credits the director of development may grant under such agreements shall be as follows:

1996	$5,000,000
1997	$10,000,000
1998	$10,000,000
1999	$5,000,000

For any year in which the director of development does not grant tax credits under this section equal to the maximum annual amount, the amount not granted for that year shall be added to the maximum annual amount that may be granted for the following year. However, the director shall not grant any tax credits under this section after June 30, 1999.

(C)(1) If the covenant not to sue was issued in connection with a site that is not located in an eligible area, the credit amount is equal to the lesser of five hundred thousand dollars or ten per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(2) If a covenant not to sue was issued in connection with a site that is located in an eligible area, the credit amount is equal to the lesser of seven hundred fifty thousand dollars or fifteen per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(3) A taxpayer, partnership, or S corporation that has been issued covenants not to sue under section 3746.12 of the Revised Code for more

than one site may apply to the director of development to enter into more than one agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) For each year for which a taxpayer, partnership, or S corporation has been granted a credit under an agreement entered into under this section, the director of development shall issue a certificate to the taxpayer, partnership, or S corporation indicating the amount of the credit the taxpayer, the partners of the partnership, or the shareholders of the S corporation may claim for that year, not including any amount that may be carried forward from previous years under section 5733.34 or 5747.32 of the Revised Code.

(D)(1) Each agreement entered into under this section shall incorporate a commitment by the taxpayer, partnership, or S corporation not to permit the use of an eligible site to cause the relocation of employment positions to that site from elsewhere in this state, except as otherwise provided in division (D)(2) of this section. The commitment shall be binding on the taxpayer, partnership, or S corporation for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer, partnership, or S corporation is entitled to claim the tax credit under the agreement.

(2) An eligible site may be the site of employment positions relocated from elsewhere in this state if the director of development determines both of the following:

(a) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(b) That the governing body of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the possible relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) A taxpayer, partnership, or S corporation that has entered into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code that subsequently recovers in a lawsuit or settlement of a lawsuit at least seventy-five per cent of the eligible costs

associated with a voluntary action shall not claim any credit amount remaining, including any amounts carried forward from prior years, beginning with the taxable year in which the judgment in the lawsuit is entered or the settlement is finally agreed to.

Any amount of credit that a taxpayer, partnership, or S corporation may not claim by reason of this division shall not be considered to have been granted for the purpose of determining the total amount of credits that may be issued under division (B)(2) of this section.

(F) Each year for which a taxpayer, partnership, or S corporation claims a credit under section 5733.34 or 5747.32 of the Revised Code, the taxpayer, partnership, or S corporation shall report the following to the director of development:

(1) The status of all cost recovery litigation described in division (E) of this section to which it was a party during the previous year;

(2) Confirmation that the covenant not to sue has not been revoked or has not been voided;

(3) Confirmation that the taxpayer, partnership, or S corporation has not permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of this section;

(4) Any other information the director of development requires to perform the director's duties under this section.

(G) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the calendar year that includes that first day of January.

(H) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing forms required for administering this section.

Sec. 122.19. As used in sections 122.19 to 122.22 of the Revised Code:

(A) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets at least two of the following criteria of economic distress:

(1) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(2) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(3)(a) In the case of a municipal corporation, at least twenty per cent of

the residents have a total income for the most recent census year that is below the official poverty line.

(b) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(B) "Eligible applicant" means any of the following that are designated by the legislative authority of a county, township, or municipal corporation as provided in division (B)(1) of section 122.22 of the Revised Code:

(1) A port authority as defined in division (A) of section 4582.01 or division (A) of section 4582.21 of the Revised Code;

(2) A community improvement corporation as described in section 1724.01 of the Revised Code;

(3) A community-based organization or action group that provides social services and has experience in economic development;

(4) Any other nonprofit economic development entity;

(5) A county, township, or municipal corporation if it designates itself.

(C) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area, as designated annually by the director of development under division (A) of section 122.21 of the Revised Code.

(D) "Governing body" means, in the case of a county, the board of county commissioners; in the case of a municipal corporation, the legislative authority; and in the case of a township, the board of township trustees.

(E) "Infrastructure improvements" includes site preparation, including building demolition and removal; retention ponds and flood and drainage improvements; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications hook-ups; and waterway and railway access improvements.

(F) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level, or other census block tracts contiguous to such census block tracts.

(G) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(H) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(I) "Redevelopment plan" means a plan that includes all of the following: a plat; a land use description; identification of all utilities and infrastructure needed to develop the property, including street connections; highway, rail, air, or water access; utility connections; water and sewer treatment facilities; storm drainage; and parking, and any other elements required by a rule adopted by the director of development under division (B) of section 122.21 of the Revised Code.

(J) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include documentation that demonstrates all of the following:

(1) The number of jobs lost by the closing or downsizing;

(2) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the Ohio ~~bureau~~ department of ~~employment~~ job and family services;

(3) The annual payroll associated with the job loss;

(4) The amount of state and local taxes associated with the job loss;

(5) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

Sec. 122.23. As used in sections 122.23 to 122.27 of the Revised Code:

(A) "Distressed area" means a county with a population of less than one hundred twenty-five thousand that meets at least two of the following criteria of economic distress:

(1) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(2) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(3) In intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(B) "Eligible applicant" means any of the following that is designated by the governing body of an eligible area as provided in division (B)(1) of section 122.27 of the Revised Code:

(1) A port authority as defined in division (A) of section 4582.01 or division (A) of section 4582.21 of the Revised Code;

(2) A community improvement corporation as defined in section 1724.01 of the Revised Code;

(3) A community-based organization or action group that provides social services and has experience in economic development;

(4) Any other nonprofit economic development entity;

(5) A private developer that previously has not received financial assistance under section 122.24 of the Revised Code and that has experience and a successful history in industrial development.

(C) "Eligible area" means a distressed area, a labor surplus area, or a situational distress area, as designated annually by the director of development pursuant to division (A) of section 122.25 of the Revised Code.

(D) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(E) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(F) "Situational distress area" means a county that has a population of less than one hundred twenty-five thousand persons, or a municipal corporation in such a county, that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include documentation that demonstrates all of the following:

(1) The number of jobs lost by the closing or downsizing;

(2) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the Ohio ~~bureau~~ director of ~~employment~~ job and family services;

(3) The annual payroll associated with the job loss;

(4) The amount of state and local taxes associated with the job loss;

(5) The impact that the closing or downsizing has on the suppliers located in the rural county or municipal corporation.

(G) "Governing body" means, in the case of a county, the board of county commissioners; in the case of a municipal corporation, the legislative authority; and in the case of a township, the board of township trustees.

(H) "Infrastructure improvements" includes site preparation, including building demolition and removal; retention ponds and flood and drainage improvements; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric,

and telecommunications hook-ups; and waterway and railway access improvements.

(I) "Private developer" means any individual, firm, corporation, or entity, other than a nonprofit entity, limited profit entity, or governmental entity.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code, and as provided elsewhere by law, shall exercise the following powers:

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

(2) To have general supervision over the construction of any projects, improvements, or public buildings constructed for a state agency and over the inspection of materials previous to their incorporation into those projects, improvements, or buildings;

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, ~~human~~ job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, ~~the bureau of employment services,~~ the rehabilitation services commission, and boards of trustees of educational and benevolent institutions. These contracts shall be made and entered into by the directors of public safety, ~~human~~ job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, ~~the administrator of the bureau of employment services,~~ the rehabilitation services commission, and the boards of trustees of such institutions, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

(4) To prepare and suggest comprehensive plans for the development of

grounds and buildings under the control of a state agency;

(5) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

(6) To make and provide all plans, specifications, and models for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state in connection with buildings and grounds under the control of a state agency;

(7) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

(8) To procure, by lease, storage accommodations for a state agency;

(9) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be granted for a period not to exceed fifteen years and shall be executed for the state by the director of administrative services and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.77 of the Revised Code.

(10) To lease office space in buildings for the use of a state agency;

(11) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

(12) To exercise general custodial care of all real property of the state;

(13) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

(14) To lease for a period not to exceed forty years, pursuant to a

contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;

(ii) Details to scale and full sized, so drawn and represented as to be easily understood;

(iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction;

(iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needed information;

(v) A full and accurate estimate of each item of expense and of the aggregate cost thereof.

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered

into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(15) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code;

(16) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A

loper desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

(a) The best interests of the state will be promoted by entering into a lease with the developer;

(b) The development plans are satisfactory;

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and stipulations as the director considers necessary to preserve the best interest of the state. Moneys received by the state pursuant to this lease shall be paid into the general revenue fund. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements shall become the property of the state without cost.

(17) To lease to any person any tract of land owned by the state and under the control of the department, or any part of such a tract, for the purpose of drilling for or the pooling of oil or gas. Such a lease shall be granted for a period not exceeding forty years, with the full power to contract for, determine the conditions governing, and specify the amount the state shall receive for the purposes specified in the lease, and shall be prepared as in other cases.

(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department;

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to be made repairs to all property owned or under the control of the patrol;

(4) The power of the division of liquor control in the leasing or purchasing of retail outlets and warehouse facilities for the use of the division;

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, ~~the bureau of employment services,~~ the bureau of workers' compensation, or the departments of public safety, ~~human~~ job and family services, mental health, mental retardation and developmental disabilities, and rehabilitation and correction, and buildings of educational and benevolent institutions under the management and control of boards of trustees, are not subject to the control and jurisdiction of the department of administrative services.

(D) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 124.11. The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts thereof shall be divided into the unclassified service and the classified service.

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(1) All officers elected by popular vote or persons appointed to fill vacancies in such offices;

(2) All election officers as defined in section 3501.01 of the Revised Code;

(3) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent; and the members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district; except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service;

(4) The members of county or district licensing boards or commissions and boards of revision, and deputy county auditors;

(5) All officers and employees elected or appointed by either or both branches of the general assembly, and such employees of the city legislative authority as are engaged in legislative duties;

(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;

(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;

(b) The library staff of any library in the state supported wholly or in part at public expense.

(8) Four clerical and administrative support employees for each of the elective state officers; and three clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service

commissions, that are authorized to appoint such clerical and administrative support employees;

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of ~~human~~ job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise, or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the director of administrative services finds it impracticable to determine their fitness by competitive examination;

(11) Assistants to the attorney general, special counsel appointed or employed by the attorney general, assistants to county prosecuting attorneys, and assistants to city directors of law;

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

(13) Any physician or dentist who is a full-time employee of the department of mental health or the department of mental retardation and developmental disabilities or of an institution under the jurisdiction of either department; and physicians who are in residency programs at the institutions;

(14) Up to twenty positions at each institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities that the department director determines to be

primarily administrative or managerial; and up to fifteen positions in any division of either department, excluding administrative assistants to the director and division chiefs, which are within the immediate staff of a division chief and which the director determines to be primarily and distinctively administrative and managerial;

(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of Ohio, or medical assistants, in mental, tuberculosis, or chronic disease hospitals, or institutions;

(16) Employees of the governor's office;

(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the Revised Code;

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of mental retardation and developmental disabilities;

(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;

(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;

(22) County directors of ~~human~~ job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;

(24) Chiefs of construction and compliance, of operations and maintenance, and of licensing and certification in the division of industrial compliance in the department of commerce;

(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, ~~bureau of employment services,~~ bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of

that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive external interim, intermittent, or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts thereof, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of civil service township police or fire departments having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts thereof, and upon the creation by the board of trustees of a civil service township of a township civil service commission all positions in civil service township police or fire departments having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations.

Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter.

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class shall be filled by appointment from lists of applicants registered by the director. The director or the commission, by rule, shall require an applicant for registration in the labor class to furnish such evidence or take such tests as the director considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from such evidence or in such tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director shall certify from the highest on the list double the number to be employed; from this number the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the unclassified civil service.

(D) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, 5119.071, 5120.07, 5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised Code.

An appointing authority whose employees are paid directly by warrant of the auditor of state may appoint a person who holds a certified position in the classified service within the appointing authority's agency to a position in the unclassified service within that agency. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified

service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

Sec. 124.14. (A) The director of administrative services shall establish, and may modify or repeal, by rule, a job classification plan for all positions, offices, and employments the salaries of which are paid in whole or in part by the state. The director shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The director shall, by rule, assign a classification title to each classification within the classification plan. However, the director shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges such factors as duties performed only on one shift, special skills in short supply in the labor market, recruitment problems, separation rates, comparative salary rates, the amount of training required, and other conditions affecting employment. The director shall describe the duties and responsibilities of the class and establish the qualifications for being employed in that position, and shall file with the secretary of state a copy of specifications for all of the classifications. The director shall file new, additional, or revised specifications with the secretary of state before being used. The director shall, by rule, assign each classification, either on a statewide basis or in particular counties or state institutions, to a pay range established under section 124.15 or section 124.152 of the Revised Code. The director may assign a classification to a pay range on a temporary basis for a period of time designated in the rule. The director may establish, by rule adopted under Chapter 119. of the Revised Code, experimental classification plans for some or all employees paid directly by warrant of the auditor of state. The administrative rule shall include specifications for each

classification within the plan and shall specifically address compensation ranges, and methods for advancing within the ranges, for the classifications, which may be assigned to pay ranges other than the pay ranges established under section 124.15 or 124.152 of the Revised Code.

The director may reassign to a proper classification those positions that have been assigned to an improper classification. If the compensation of an employee in such a reassigned position exceeds the maximum rate of pay for the employee's new classification, the employee shall be placed in pay step X and shall not receive an increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

The director may reassign an exempt employee, as defined in section 124.152 of the Revised Code, to a bargaining unit classification if the director determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, such placements are at the director's discretion.

The director shall, by rule, assign related classifications, which form a career progression, to a classification series. The director shall, by rule, assign each classification in the classification plan a five-digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression encompasses more than ten classifications, the director shall, by rule, identify the additional classifications belonging to a classification series. Such additional classifications shall be part of the classification series, notwithstanding the fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the numbers assigned to other classifications in the classification series.

The director shall adopt rules in accordance with Chapter 119. of the Revised Code for the establishment of a classification plan for county agencies that elect not to use the services and facilities of a county personnel department. The rules shall include a methodology for the establishment of titles unique to county agencies, the use of state classification titles and classification specifications for common positions, the criteria for a county to meet in establishing its own classification plan, and the establishment of what constitutes a classification series for county agencies.

(B) Division (A) of this section and sections 124.15 and 124.152 of the Revised Code do not apply to the following persons, positions, offices, and employments:

(1) Elected officials;

(2) Legislative employees, employees of the legislative service

mission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

(3) Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code;

(4) Any position for which the authority to determine compensation is given by law to another individual or entity;

(5) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code.

(C) The director may employ a consulting agency to aid and assist the director in carrying out this section.

(D) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the appointing authorities of the affected employees thirty days before the hearing on the proposed rule. The appointing authorities shall notify the affected employees regarding the proposed rule. The director shall also send such appointing authorities notice of any final rule which is adopted within ten days after adoption.

When the director proposes to reclassify any employee so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any classified employee who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The director shall give to the employee affected and to the employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request therefor with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate

classification as the facts and evidence warrant. As provided in division (A) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The board shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons.

(E)(1) Employees of each county department of ~~human~~ job and family services shall be paid a salary or wage established by the board of county commissioners. The provisions of section 124.18 of the Revised Code concerning the standard work week apply to employees of county departments of ~~human~~ job and family services. A board of county commissioners may do either of the following:

(a) Notwithstanding any other section of the Revised Code, supplement the sick leave, vacation leave, personal leave, and other benefits of any employee of the county department of ~~human~~ job and family services of that county, if the employee is eligible for the supplement under a written policy providing for the supplement;

(b) Notwithstanding any other section of the Revised Code, establish alternative schedules of sick leave, vacation leave, personal leave, or other benefits for employees not inconsistent with the provisions of a collective bargaining agreement covering the affected employees.

(2) The provisions of division (E)(1) of this section do not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code, except in either of the following situations:

(a) The employees for whom the state employment relations board establishes appropriate bargaining units elect no representative in a board-conducted representation election.

(b) After the state employment relations board establishes appropriate bargaining units for such employees, all employee organizations withdraw from a representation election.

(F) With respect to officers and employees of state-supported colleges and universities except for the powers and duties of the state personnel board of review, the powers, duties, and functions of the department of administrative services and the director of administrative services specified in this chapter are hereby vested in and assigned to the personnel departments of such colleges and universities subject to a periodic audit and review by the director to guarantee the uniform application of this granting of the director's powers, duties, and functions. Upon the determination or

finding of the misuse or nonuniform application of this authority granted to the personnel department of such state-supported colleges and universities, the director shall order and direct the personnel functions of such institution until sections 124.01 to 124.64 of the Revised Code have been fully complied with.

(G)(1) Each board of county commissioners may, by a resolution adopted by a majority of its members, establish a county personnel department to exercise the powers, duties, and functions specified in division (G) of this section. As used in division (G) of this section, "county personnel department" means a county personnel department established by a board of county commissioners under division (G)(1) of this section.

(2) Each board of county commissioners may, by a resolution adopted by a majority of its members, designate the county personnel department of the county to exercise the powers, duties, and functions of the department of administrative services and the director of administrative services specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code, except for the powers and duties of the state personnel board of review, which powers and duties shall not be construed as having been modified or diminished in any manner by division (G)(2) of this section, with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority. Upon certification of a copy of the resolution by the board to the director, these powers, duties, and functions are vested in and assigned to the county personnel department with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority. The certification to the director shall be provided not later than one hundred twenty days before the first day of July of an odd-numbered year, and, following the certification, the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code shall be vested in and assigned to the county personnel department on that first day of July. Nothing in division (G)(2) of this section shall be construed to limit the right of any employee who possesses the right of appeal to the state personnel board of review to continue to possess that right of appeal.

Any board of county commissioners that has established a county personnel department may contract with the department of administrative services, another political subdivision, or an appropriate public or private entity to provide competitive testing services or other appropriate services.

(3) After the county personnel department of a county has assumed the powers, duties, and functions of the department of administrative services and the director as described in division (G)(2) of this section, any elected

official, board, agency, or other appointing authority of that county may, upon notification to the director, elect to use the services and facilities of the county personnel department. Upon the acceptance by the director of such notification, the county personnel department shall exercise the powers, duties, and functions of the department of administrative services and the director as described in division (G)(2) of this section with respect to the employees of that elected official, board, agency, or other appointing authority. The notification to the director shall be provided not later than one hundred twenty days before the first day of July of an odd-numbered year, and, following the notification, the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code with respect to the employees of that elected official, board, agency, or other appointing authority shall be vested in and assigned to the county personnel department on that first day of July. Except for those employees under the jurisdiction of the county personnel department, the director shall continue to exercise these powers, duties, and functions with respect to employees of the county.

(4) Each board of county commissioners that has established a county personnel department may, by a resolution adopted by a majority of its members, disband the county personnel department and return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The board shall, not later than one hundred twenty days before the first day of July of an odd-numbered year, send the director a certified copy of the resolution disbanding the county personnel department. All powers, duties, and functions previously vested in and assigned to the county personnel department shall return to the director on that first day of July.

(5) Any elected official, board, agency, or appointing authority of a county may return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The elected official, board, agency, or appointing authority shall, not later than one hundred twenty days before the first day of July of an odd-numbered year, send the director a certified copy of the resolution that states its decision. All powers, duties, and functions previously vested in and assigned to the county personnel department with respect to the employees of that elected official, board, agency, or appointing authority shall return to the director on that first day of July.

(6) The director, by rule adopted in accordance with Chapter 119. of the Revised Code, shall prescribe criteria and procedures for granting to each county personnel department the powers, duties, and functions of the

partment of administrative services and the director as described in division (G)(2) of this section with respect to the employees of an elected official, board, agency, or other appointing authority or co-appointing authority. The rules shall cover the following criteria and procedures:

(a) The notification to the department of administrative services that an elected official, board, agency, or other appointing authority of a county has elected to use the services and facilities of the county personnel department;

(b) A requirement that each county personnel department, in carrying out its duties, adhere to merit system principles with regard to employees of county departments of ~~human~~ job and family services, child support enforcement agencies, and public child welfare agencies so that there is no threatened loss of federal funding for these agencies, and a requirement that the county be financially liable to the state for any loss of federal funds due to the action or inaction of the county personnel department. The costs associated with audits conducted to monitor compliance with division (G)(6)(b) of this section shall be borne equally by the department of administrative services and the county.

(c) The termination of services and facilities rendered by the department of administrative services, to include rate adjustments, time periods for termination, and other related matters;

(d) Authorization for the director of administrative services to conduct periodic audits and reviews of county personnel departments to guarantee the uniform application of this granting of the director's powers, duties, and functions. The costs of the audits and reviews shall be borne equally by the department of administrative services and the county for which the services were performed.

(e) The dissemination of audit findings under division (G)(5)(d) of this section, any appeals process relating to adverse findings by the department, and the methods whereby the county personnel program will revert to the authority of the director of administrative services due to misuse or nonuniform application of the authority granted to the county under division (G)(2) or (3) of this section.

(H) The director shall establish the rate and method of compensation for all employees who are paid directly by warrant of the auditor of state and who are serving in positions which the director has determined impracticable to include in the state job classification plan. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general,

employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

(I) The director shall set the rate of compensation for all intermittent, interim, seasonal, temporary, emergency, and casual employees who are not considered public employees under section 4117.01 of the Revised Code. Such employees are not entitled to receive employee benefits. This rate of compensation shall be equitable in terms of the rate of employees serving in the same or similar classifications. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

Sec. 124.324. (A) A laid-off employee has the right to displace the employee with the fewest retention points in the classification from which the employee was laid off or in a lower or equivalent classification, in the following order:

(1) Within the classification from which the employee was laid off;

(2) Within the classification series from which the employee was laid off;

(3) Within a classification which has the same or similar duties as the classification from which the employee was laid off, in accordance with the list published by the director under division (B)(2) of section 124.311 of the Revised Code;

(4) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off.

Divisions (A)(3) and (4) of this section shall not apply to employees of cities, city health districts, and counties, except for employees of county departments of ~~human~~ job and family services.

A laid-off employee in the classified service has the right to displace an employee with the fewest retention points in the classification that the laid-off employee held immediately prior to holding the classification from which ~~he~~ the employee was laid off, if the laid-off employee was certified in the former classification. If a position in that classification does not exist,

hen the employee may displace employees in the classification that ~~he~~ the employee next previously held, and so on, subject to the same provisions. The employee may not displace employees in a classification if the employee does not meet the minimum qualifications of the classification, or if the employee held the classification more than five years prior to the date on which the employee was laid off, except that failure to meet minimum qualifications shall not prevent the employee from displacing employees in the classification that ~~he~~ the employee next previously held within that five-year period.

If, after exercising displacement rights, an employee is subject to further layoff action, ~~his~~ the employee's displacement rights shall be in accordance with the classification from which ~~he~~ the employee was first laid off.

The director shall verify the calculation of the retention points of all employees in an affected classification in accordance with section 124.325 of the Revised Code.

(B) Following the order of layoff, an employee laid off in the classified civil service shall displace another employee within the same appointing authority or independent institution and layoff jurisdiction in the following manner:

(1) Each laid-off employee possessing more retention points shall displace the employee with the fewest retention points in the next lower classification or successively lower classification in the same classification series; except that a laid-off provisional employee shall not have the right to displace a certified employee;

(2) Any employee displaced by an employee possessing more retention points shall displace the employee with the fewest retention points in the next lower classification or successively lower classification in the same classification series; except that a displaced provisional employee shall not displace a certified employee. This process shall continue, if necessary, until the employee with the fewest retention points in the lowest classification of the classification series of the same appointing authority or independent institution has been reached and, if necessary, laid off.

(C) Employees shall notify the appointing authority of their intention to exercise their displacement rights, within five days after receiving notice of layoff.

(D) No employee shall displace an employee for whose position or classification there exists special minimum qualifications, as established by a position description, classification specifications, or by bona fide occupational qualification, unless the employee desiring to displace another employee possesses the requisite minimum qualifications for the position or

classification.

(E) If an employee exercising ~~his~~ displacement rights must displace an employee in another county within the same layoff district, the displacement shall not be construed to be a transfer.

(F) The director of administrative services shall promulgate rules, under Chapter 119. of the Revised Code, for the implementation of this section.

Sec. 125.30. (A) The department of administrative services shall do both of the following:

(1) Create a business reply form that is capable of containing information that a private business is required to provide to state agencies on a regular basis. The director of administrative services shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the information that the form shall contain. Subject to division (E) of this section, state agencies shall use the business reply form to obtain information from private businesses.

(2) Create an on-line computer network system to allow private businesses to electronically file the business reply form.

In creating the business reply form described in division (A)(1) of this section, the director may consider the recommendations of interested parties from the small business community who have direct knowledge of and familiarity with the current state reporting requirements that apply to and the associated forms that are filed by small businesses.

(B) The director shall establish procedures by which state agencies may share the information that is collected through the form established under division (A) of this section. These procedures shall provide that information that has been designated as confidential by any state agency shall not be made available to the other state agencies having access to the business reply form.

(C) Not later than September 30, 1999, the director may report to the director of budget and management and to the committees that handle finance and the committees that handle state government affairs in the house of representatives and the senate on the progress of state agencies in complying with division (A)(1) of this section. The director may recommend a five per cent reduction in the future appropriations of any state agency that has failed to comply with that division without good cause.

(D) As used in this section:

(1) "State agency" means the secretary of state, the ~~bureau~~ <u>department</u> of ~~employment~~ <u>job and family</u> services <u>regarding duties it performs pursuant to Title XLI of the Revised Code</u>, the bureau of workers' compensation, the department of administrative services, and any other state agency that elects

to participate in the pilot program as provided in division (E) of this section.

(2) "Form" has the same meaning as in division (B) of section 125.91 of the Revised Code.

(E) The provisions of this section pertaining to the business reply form constitute a two-year pilot program. Not later than one year after ~~the effective date of this section~~ January 21, 1998, the department of administrative services shall complete the planning and preparation that is necessary to implement the pilot program. The director of administrative services may request other state agencies, as defined in division (A) of section 125.91 of the Revised Code, to participate in the pilot program. If the director so requests, the state agency may participate in the program. The provisions of this section shall cease to have effect three years after ~~the effective date of this section~~ January 21, 1998 Within ninety days after the completion of the pilot program, the director of administrative services shall report to the director of budget and management and the committees described in division (C) of this section on the effectiveness of the pilot program.

Sec. 126.07. No contract, agreement, or obligation involving the expenditure of money chargeable to an appropriation, nor any resolution or order for the expenditure of money chargeable to an appropriation, shall be valid and enforceable unless the director of budget and management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations, in an amount at least equal to the portion of the contract, agreement, obligation, resolution, or order to be performed in the current fiscal year. Any written contract or agreement entered into by the state shall contain a clause stating that the obligations of the state are subject to this section.

In order to make a payment from the state treasury, a state agency shall first submit to the director all invoices, claims, vouchers, and other evidentiary matter related to the payment. If the director approves payment to be made, the director shall submit the approval to the auditor of state for the drawing of a warrant as provided in section 117.45 of the Revised Code. The director shall not approve payment to be made if the director finds that there is not an unobligated balance in the appropriation for the payment, that the payment is not for a valid claim against the state that is legally due, or that insufficient evidentiary matter has been submitted. If the director does not approve payment, the director shall notify the agency of the reasons the director has not given approval.

In approving payments to be made under this section, the director, upon receipt of certification from the ~~administrator~~ director of ~~the bureau of~~

~~employment~~ job and family services pursuant to section 4141.231 of the Revised Code, shall withhold from amounts otherwise payable to a person who is the subject of the ~~administrator's~~ director of jobs and family services' certification, the amount certified to be due and unpaid to the ~~bureau~~ director of ~~employment~~ job and family services, and shall approve for payment to the ~~bureau~~ director of ~~employment~~ job and family services, the amount withheld.

Sec. 131.11. No money held or controlled by any probate court, juvenile court, clerk of the court of common pleas, clerk of a county court, sheriff, county recorder, director of a county department of ~~human~~ job and family services, clerk or bailiff of a municipal court, prosecuting attorney, resident or division deputy director of highways, or treasurer of a university receiving state aid, in excess of that covered by federal deposit insurance as hereinafter described or in excess of that covered by federal savings and loan insurance, shall be deposited in any bank, trust company, or building and loan association as defined in section 1151.01 of the Revised Code until there is a hypothecation of securities as provided for in section 135.18 of the Revised Code, or until there is executed by the bank, trust company, or building and loan association selected, a good and sufficient undertaking, payable to the depositor, in such sum as the depositor directs, but not less than the excess of the sum that is deposited in the depository, at any one time over and above the portion or amount of the sum as is at any time insured by the federal deposit insurance corporation created pursuant to "The Banking Act of 1933," or by the federal savings and loan insurance corporation created pursuant to the "Home Owners' Loan Act of 1933," 40 Stat. 128, 12 U.S.C.A. 1461, or by any other agency or instrumentality of the federal government, pursuant to such acts or any acts of congress amendatory thereof.

Any funds or securities in the possession or custody of any county official in ~~his~~ an official capacity or any funds or securities the possession or custody of which is charged to any county official, including funds or securities in transit to or from any bank or trust company, may be insured by the board of county commissioners in such amount as is found necessary in the public interest. All costs of such insurance shall be paid by the county as provided in section 307.55 of the Revised Code.

With respect to any insured or secured deposit mentioned in this section which is active as defined by section 135.01 of the Revised Code, any depositor named in this section may pay a service charge which is the same as that customarily made by the institution or institutions receiving money on deposit subject to check in the city or village where the bank or trust

company accepting such active deposit is located.

Sec. 131.41. There is hereby created in the state treasury the ~~human~~ family services stabilization fund. The fund shall consist of moneys deposited into it pursuant to acts of the general assembly. The director of budget and management, with advice from the director of ~~human~~ job and family services, may transfer moneys in the ~~human~~ family services stabilization fund to the general revenue fund for the department of ~~human~~ job and family services. Moneys may be transferred due to identified shortfalls for family services activities, such as higher caseloads, federal funding changes, and unforeseen costs due to significant state policy changes. Before transfers are authorized, the director of budget and management shall exhaust the possibilities for transfers of moneys within the department of ~~human~~ job and family services to meet the identified shortfall. Transfers shall not be used to fund policy changes not contemplated by acts of the general assembly. Any investment earnings of the ~~human~~ family services stabilization fund shall be credited to that fund.

Sec. 135.81. As used in sections 135.81 to 135.88 of the Revised Code:

(A) "Community improvement corporation" means a corporation organized under Chapter 1724. of the Revised Code.

(B) "Depressed economic area linked deposit" means a certificate of deposit in any amount placed by the treasurer of state with an eligible lending institution at up to three per cent below current market rates as determined and calculated by the treasurer of state, provided the institution agrees to lend the value of the deposit, according to the deposit agreement provided in division (C) of section 135.86 of the Revised Code to eligible businesses at three per cent below the present borrowing rate applicable to each specific business at the time of the deposit of state funds in the institution.

(C) "Eligible business" means any person that possesses all of the following characteristics:

(1) Maintains or, because of the depressed economic area linked deposit loan, will maintain offices and operating facilities in an eligible county in this state and transacts business in the county;

(2) Is organized for profit.

(D) "Eligible county" means any county in this state with a rate of unemployment as determined by the ~~bureau~~ director of ~~employment~~ job and family services that is at least one per cent higher than the statewide average rate of unemployment.

(E) "Eligible lending institution" means a financial institution that:

(1) Is eligible to make commercial loans;

(2) Is a public depository of state funds under section 135.03 of the Revised Code;

(3) Agrees to participate in the depressed economic area linked deposit program.

(F) "Qualified agent" means a:

(1) Community improvement corporation;

(2) Corporation organized under Chapter 1702. of the Revised Code that the board of county commissioners of an eligible county determines meets the criteria established by the director of development pursuant to section 122.011 of the Revised Code.

Sec. 135.96. (A) The treasurer of state shall take all steps, including the development of guidelines, necessary to implement the assistive technology device linked deposit program established under sections 135.91 to 135.97 of the Revised Code and monitor compliance of eligible lending institutions and eligible individuals with disabilities.

(B)(1) Annually, by the first day of February, the treasurer of state shall report on the assistive technology device linked deposit program established under sections 135.91 to 135.97 of the Revised Code for the preceding calendar year to the governor, the speaker of the house of representatives, and the president of the senate.

(2) The report required by division (B)(1) of this section shall set forth the assistive technology device linked deposits made by the treasurer of state under the program during the year and shall include information regarding both of the following:

(a) The nature, terms, and amounts of the loans upon which the assistive technology device linked deposits were based;

(b) The eligible individuals with disabilities to whom the loans were made.

(3) The speaker of the house of representatives shall transmit copies of the report required by division (B)(1) of this section to the chairperson of the standing house of representatives committee that customarily considers legislation regarding ~~human~~ family services, and the president of the senate shall transmit copies of the report to the chairperson of the standing senate committee that customarily considers legislation regarding ~~human~~ family services.

Sec. 145.27. (A) The treasurer of state shall furnish annually to the public employees retirement board a sworn statement of the amount of the funds in the ~~treasurer's~~ treasurer of state's custody belonging to the public employees retirement system.

(B)(1) As used in this division, "personal history record" means

information maintained by the board on a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 145.16 of the Revised Code;

(b) The amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(C) All medical reports and recommendations required by sections 145.01 to 145.59 of the Revised Code are privileged, except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(D) Any person who is a member or contributor of the system shall be furnished with a statement of the amount to the credit of the individual's account upon written request. The board is not required to answer more than one such request of a person in any one year. The board may issue annual statements of accounts to members and contributors.

(E) Notwithstanding the exceptions to public inspection in division (B)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3111.23 or 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, contributors, former contributors, retirants, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of ~~human~~ job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(F) A statement that contains information obtained from the system's records that is signed by the executive director of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 149.43. (A) As used in this section:

(1) "Public record" means any record that is kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, except that "public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of ~~human~~ job and family services or, pursuant to section 5101.313 of the Revised Code, the division of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2317.023 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of human services pursuant to section 5101.312 of the Revised Code;

(p) Peace officer residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

~~(q)~~(r) Records the release of which is prohibited by state or federal law.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains

on that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer residential and familial information" means information that discloses any of the following:

(a) The address of the actual personal residence of a peace officer, except for the state or political subdivision in which the peace officer resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer by the peace officer's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's employer from the peace officer's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer.

As used in divisions (A)(7) and (B)(5) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code, except that

"peace officer" does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division.

(2) If any person chooses to obtain a copy of a public record in accordance with division (B)(1) of this section, the public office or person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy.

(3) Upon a request made in accordance with division (B)(1) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage and other supplies used in the mailing.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial

purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(4) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(5) Upon written request made and signed by a journalist on or after the effective date of this amendment, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer shall disclose to the journalist the address of the actual personal residence of the peace officer and, if the peace officer's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

As used in division (B)(5) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C) If a person allegedly is aggrieved by the failure of a public office to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or if a person who has requested a copy of a public record allegedly is aggrieved by the failure of a public office or the person responsible for the public record to make a copy available to the person allegedly aggrieved in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the

person responsible for the public record to comply with division (B) of this section and that awards reasonable attorney's fees to the person that instituted the mandamus action. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in divisions (B)(3) and (E)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction.

"Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (E)(1) and (2) of this section, "commercial surveys, marketing, solicitation, or resale" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 153.39. If the plans, drawings, representations, bills of material, specifications of work, and estimates relate to the building of a children's home, they shall be submitted to the board of county commissioners and three citizens of the county, to be appointed by a resident judge of the court of common pleas, or a judge residing in the same subdivision of the judicial district. If approved by a majority of them, a copy thereof shall be deposited with the county auditor and kept by ~~him~~ the auditor for the inspection of interested parties. Before such plans are adopted, they shall be submitted to the department of ~~human~~ job and family services for suggestions and criticism. The boards of counties composing a district for the purpose of establishing a district children's home, in letting contracts for the necessary buildings or the repair or alteration thereof, shall be governed by the law relating to letting contracts for erecting, repairing, or altering other public buildings.

Sec. 169.02. Subject to division (B) of section 169.01 of the Revised Code, the following constitute unclaimed funds:

(A) Except as provided in division (R) of this section, any demand, savings, or matured time deposit account, or matured certificate of deposit, together with any interest or dividend on it, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(B) Any funds paid toward the purchase of withdrawable shares or other interest in a financial organization, and any interest or dividends on them, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(C) Except as provided in division (A) of section 3903.45 of the Revised Code, moneys held or owed by a holder, including a fraternal association, providing life insurance, including annuity or endowment coverage, unclaimed for three years after becoming payable as established from the records of such holder under any life or endowment insurance policy or annuity contract that has matured or terminated. An insurance policy, the proceeds of which are payable on the death of the insured, not matured by proof of death of the insured is deemed matured and the proceeds payable if

such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based.

Moneys otherwise payable according to the records of such holder are deemed payable although the policy or contract has not been surrendered as required.

(D) Any deposit made to secure payment or any sum paid in advance for utility services of a public utility and any amount refundable from rates or charges collected by a public utility for utility services held or owed by a holder, less any lawful claims, that has remained unclaimed for one year after the termination of the services for which the deposit or advance payment was made or one year from the date the refund was payable, whichever is earlier;

(E) Except as provided in division (R) of this section, any certificates, securities as defined in section 1707.01 of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, and instruments representing an ownership interest, unclaimed for five years. Any underlying share or other intangible instrument representing an ownership interest in a business association, in which the issuer has recorded on its books the issuance of the share but has been unable to deliver the certificate to the shareholder, constitutes unclaimed funds if such underlying share is unclaimed for five years. In addition, an underlying share constitutes unclaimed funds if a dividend, distribution, or other sum payable as a result of the underlying share has remained unclaimed by the owner for five years.

This division shall not prejudice the rights of fiscal agents or fiduciaries for payment to return the items described in this division to their principals, according to the terms of an agency or fiduciary agreement, but such a return shall constitute the principal as the holder of the items and shall not interrupt the period for computing the time for which the items have remained unclaimed.

In the case of any such funds accruing and held or owed by a corporation under division (E) of section 1701.24 of the Revised Code, such corporation shall comply with this chapter, subject to the limitation contained in section 1701.34 of the Revised Code. The period of time for which such funds have gone unclaimed specified in section 1701.34 of the Revised Code shall be computed, with respect to dividends or distributions, commencing as of the dates when such dividends or distributions would

have been payable to the shareholder had such shareholder surrendered the certificates for cancellation and exchange by the date specified in the order relating to them.

Capital credits of a cooperative which after January 1, 1972, have been allocated to members and which by agreement are expressly required to be paid if claimed after death of the owner are deemed payable, for the purpose of this chapter, fifteen years after either the termination of service by the cooperative to the owner or upon the nonactivity as provided in division (B) of section 169.01 of the Revised Code, whichever occurs later, provided that this provision does not apply if the payment is not mandatory.

(F) Any sum payable on certified checks or other written instruments certified or issued and representing funds held or owed by a holder, less any lawful claims, that are unclaimed for five years, and traveler's checks that are unclaimed for fifteen years from the date payable, or from the date of issuance if payable on demand.

As used in this division, "written instruments" include, but are not limited to, certified checks, cashier's checks, bills of exchange, letters of credit, drafts, money orders, and traveler's checks.

If there is no address of record for the owner or other person entitled to the funds, such address is presumed to be the address where the instrument was certified or issued.

(G) Except as provided in division (R) of this section, all moneys, rights to moneys, or other intangible property, arising out of the business of engaging in the purchase or sale of securities, or otherwise dealing in intangibles, less any lawful claims, that are held or owed by a holder and are unclaimed for five years from the date of transaction.

(H) Except as provided in division (A) of section 3903.45 of the Revised Code, all moneys, rights to moneys, and other intangible property distributable in the course of dissolution or liquidation of a holder that are unclaimed for one year after the date set by the holder for distribution;

(I) All moneys, rights to moneys, or other intangible property removed from a safe-deposit box or other safekeeping repository located in this state or removed from a safe-deposit box or other safekeeping repository of a holder, on which the lease or rental period has expired, or any amount arising from the sale of such property, less any lawful claims, that are unclaimed for three years from the date on which the lease or rental period expired;

(J) Subject to division (M)(2) of this section, all moneys, rights to moneys, or other intangible property, and any income or increment on them, held or owed by a holder which is a fiduciary for the benefit of another, or a

fiduciary or custodian of a qualified retirement plan or individual retirement arrangement under section 401 or 408 of the Internal Revenue Code, unclaimed for three years after the final date for distribution;

(K) All moneys, rights to moneys, or other intangible property held or owed in this state or held for or owed to an owner whose last known address is within this state, by the United States government or any state, as those terms are described in division (E) of section 169.01 of the Revised Code, unclaimed by the owner for three years, excluding any property in the control of any court in a proceeding in which a final adjudication has not been made;

(L) Amounts payable pursuant to the terms of any policy of insurance, other than life insurance, or any refund available under such a policy, held or owed by any holder, unclaimed for three years from the date payable or distributable;

(M)(1) Subject to division (M)(2) of this section, any funds constituting rents or lease payments due, any deposit made to secure payment of rents or leases, or any sum paid in advance for rents, leases, possible damage to property, unused services, performance requirements, or any other purpose, held or owed by a holder unclaimed for one year;

(2) Any escrow funds, security deposits, or other moneys that are received by a licensed broker in a fiduciary capacity and that, pursuant to division (A)(26) of section 4735.18 of the Revised Code, are required to be deposited into and maintained in a special or trust, noninterest-bearing bank account separate and distinct from any personal or other account of the licensed broker, held or owed by the licensed broker unclaimed for two years.

(N) Any sum payable as wages, salaries, or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, and moneys owed under pension and profit-sharing plans, held or owed by any holder unclaimed for one year from date payable or distributable, and all other credits held or owed by any holder unclaimed for three years from date payable or distributable;

(O) Amounts held in respect of or represented by lay-aways sold after January 1, 1972, less any lawful claims, when such lay-aways are unclaimed for three years after the sale of them;

(P) All moneys, rights to moneys, and other intangible property not otherwise constituted as unclaimed funds by this section, including any income or increment on them, less any lawful claims, which are held or owed by any holder, other than a holder which holds a permit issued

pursuant to Chapter 3769. of the Revised Code, and which have remained unclaimed for three years after becoming payable or distributable;

(Q) All moneys that arise out of a sale held pursuant to section 5322.03 of the Revised Code, that are held by a holder for delivery on demand to the appropriate person pursuant to division (I) of that section, and that are unclaimed for two years after the date of the sale.

(R)(1) Any funds that are subject to an agreement between the holder and owner providing for automatic reinvestment and that constitute dividends, distributions, or other sums held or owed by a holder in connection with a security as defined in section 1707.01 of the Revised Code, an ownership interest in an investment company registered under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate of deposit, unclaimed for a period of five years.

(2) The five-year period under division (R)(1) of this section commences from the date a second shareholder notification or communication mailing to the owner of the funds is returned to the holder as undeliverable by the United States postal service or other carrier. The notification or communication mailing by the holder shall be no less frequent than quarterly.

All moneys in a personal allowance account, as defined by rules adopted by the ~~department~~ director of ~~human~~ job and family services, up to and including the maximum resource limitation, of a medicaid patient who has died after receiving care in a long-term care facility, and for whom there is no identifiable heir or sponsor, are not subject to this chapter.

Sec. 169.03. (A)(1) Every holder of unclaimed funds and, when requested, every person which could be the holder of unclaimed funds, under this chapter shall report to the director of commerce with respect to the unclaimed funds as provided in this section. The report shall be verified.

(2) With respect to items of unclaimed funds each having a value of fifty dollars or more, the report required under division (A)(1) of this section shall include:

(a) The full name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of unclaimed funds under this chapter;

(b) In the case of unclaimed funds reported by holders providing life insurance coverage, the full name of the insured or annuitant and beneficiary, if any, and their last known addresses according to such holder's records;

(c) The nature and identifying number, if any, or description of the funds and the amount appearing from the records to be due;

(d) The date when the funds became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the funds;

(e) Subject to division (I) of this section, the social security number of the owner of the unclaimed funds, if it is available;

(f) Other information which the director prescribes as necessary for the administration of this chapter.

(3) With respect to items of unclaimed funds each having a value of less than fifty dollars, the report required under division (A)(1) of this section shall include:

(a) Each category of items of unclaimed funds as described in section 169.02 of the Revised Code;

(b) The number of items of unclaimed funds within each category;

(c) The aggregated value of the items of unclaimed funds within each category.

(B) If the holder of unclaimed funds is a successor to other organizations that previously held the funds for the owner, or if the holder has changed its name while holding the funds, it shall file with the report all prior known names and addresses and date and state of incorporation or formation of each holder of the funds.

(C) The report shall be filed before the first day of November of each year as of the preceding thirtieth day of June, but the report of holders providing life insurance coverage shall be filed before the first day of May of each year as of the preceding thirty-first day of December. The director may postpone, for good cause shown, the reporting date upon written request by any holder required to file a report.

(D) The holder of unclaimed funds under this chapter shall send notice to each owner of each item of unclaimed funds having a value of fifty dollars or more at the last known address of the owner as shown by the records of the holder before filing the annual report. In case of holders providing life insurance coverage, such notice shall also be mailed to each beneficiary at the last known address of such beneficiary as shown by the records of such holder, except that such notice to beneficiaries shall not be mailed if such address is the same as that of the insured and the surname of the beneficiary is the same as that of the insured. The holder shall not report an item of unclaimed funds earlier than the thirtieth day after the mailing of notice required by this division.

Such notice shall set forth the nature and identifying number, if any, or description of the funds and the amount appearing on the records of the holder to be due the owner, and shall inform the owner that the funds will, thirty days after the mailing of such notice, be reported as unclaimed funds

under this chapter. A self-addressed, stamped envelope shall be included with the notice, with instructions that the owner may use such envelope to inform the holder of the owner's continued interest in the funds and, if so informed before the date for making the report to the director, the holder shall not report said funds to the director. The notice shall be mailed by first class mail. If there is no address of record for the owner or other person entitled to the unclaimed funds, the holder is relieved of any responsibility of sending notice, attempting to notify, or notifying the owner. The mailing of notice pursuant to this section shall discharge the holder from any further responsibility to give notice.

(E) Verification of the report and of the mailing of notice, where required, shall be executed by an officer of the reporting holder.

(F)(1) The director may at reasonable times and upon reasonable notice examine or cause to be examined, by auditors of supervisory departments or divisions of the state, the records of any holder to determine compliance with this chapter.

(2) Holders shall retain records, designated by the director as applicable to unclaimed funds, for five years beyond the relevant time period provided in section 169.02 of the Revised Code, or until completion of an audit conducted pursuant to division (F) of this section, whichever occurs first. An audit conducted pursuant to division (F) of this section shall not require a holder to make records available for a period of time exceeding the records retention period set forth in division (F) of this section, except for records pertaining to instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, or pertaining to debt of a publicly traded corporation. Any holder that is audited pursuant to division (F) of this section shall only be required to make available those records that are relevant to an unclaimed funds audit of that holder as prescribed by the director.

(3) The director may enter into contracts, pursuant to procedures prescribed by the director, with persons for the sole purpose of examining the records of holders, determining compliance with this chapter, and collecting, taking possession of, and remitting to the department's division of unclaimed funds, in a timely manner, the amounts found and defined as unclaimed. The director shall not enter into such a contract with a person unless the person does all of the following:

(a) Agrees to maintain the confidentiality of the records examined, as required under division (F)(4) of this section;

(b) Agrees to conduct the audit in accordance with rules adopted under section 169.09 of the Revised Code;

(c) Obtains a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the director and in the penal sum determined by the director. The bond shall be for the benefit of any holder of unclaimed funds that is audited by the principal and is injured by the principal's failure to comply with division (F)(3)(a) or (b) of this section.

(4) Records audited pursuant to division (F) of this section are confidential, and shall not be disclosed except as required by section 169.06 of the Revised Code or as the director considers necessary in the proper administration of this chapter.

(5) If a person with whom the director has entered into a contract pursuant to division (F)(3) of this section intends to conduct, in conjunction with an unclaimed funds audit under this section, an unclaimed funds audit for the purpose of administering another state's unclaimed or abandoned property laws, the person, prior to commencing the audit, shall provide written notice to the director of the person's intent to conduct such an audit, along with documentation evidencing the person's express authorization from the other state to conduct the audit on behalf of that state.

(6) Prior to the commencement of an audit conducted pursuant to division (F) of this section, the director shall notify the holder of unclaimed funds of the director's intent to audit the holder's records. If the audit will be conducted in conjunction with an audit for one or more other states, the director shall provide the holder with the name or names of those states.

(7) Any holder of unclaimed funds may appeal the findings of an audit conducted pursuant to division (F) of this section to the director. Pursuant to the authority granted by section 169.09 of the Revised Code, the director shall adopt rules establishing procedures for considering such an appeal.

(G) All holders shall make sufficient investigation of their records to ensure that the funds reported to the director are unclaimed as set forth in division (B) of section 169.01 and section 169.02 of the Revised Code.

(H) The expiration of any period of limitations on or after March 1, 1968, within which a person entitled to any moneys, rights to moneys, or intangible property could have commenced an action or proceeding to obtain the same shall not prevent such items from becoming unclaimed funds or relieve the holder thereof of any duty to report and give notice as provided in this section and deliver the same in the manner provided in section 169.05 of the Revised Code, provided that the holder may comply with the provisions of this section and section 169.05 of the Revised Code

with respect to any moneys, rights to moneys, or intangible property as to which the applicable statute of limitations has run prior to March 1, 1968, and in such event the holder shall be entitled to the protective provisions of section 169.07 of the Revised Code.

(I) No social security number contained in a report made pursuant to this section shall be used by the department of commerce for any purpose other than to enable the division of unclaimed funds to carry out the purposes of this chapter and for child support purposes in response to a request made by the division of child support in the department of ~~human~~ job and family services made pursuant to section 5101.327 of the Revised Code.

Sec. 169.08. (A) Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code, including the division of child support in the department of ~~human~~ job and family services, pursuant to section 5101.327 of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as the director desires, and the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in the court of common pleas in criminal cases. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest is not payable to claimants of unclaimed funds held by the state. Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disbursable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the

rtgage accounts as the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director shall retain in the trust fund, as a fee for administering the funds, five per cent of the total amount of unclaimed funds payable to the claimant and may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(E) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(F) Any person, including the division of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs.

(G) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, including the division of child support, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Sec. 173.03. (A) There is hereby created the Ohio advisory council for the aging, which shall consist of twelve members to be appointed by the governor with the advice and consent of the senate. Two ex officio members of the council shall be members of the house of representatives appointed by the speaker of the house of representatives and shall be members of two different political parties. Two ex officio members of the council shall be members of the senate appointed by the president of the senate and shall be members of two different political parties. The directors of mental health, mental retardation and developmental disabilities, health, and ~~human~~ job and family services, or their designees, shall serve as ex officio members of the council. The council shall carry out its role as defined under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C. 3001, as amended.

At the first meeting of the council, and annually thereafter, the members shall select one of their members to serve as ~~chairman~~ chairperson and one of their members to serve as ~~vice-chairman~~ vice-chairperson.

(B) Members of the council shall be appointed for a term of three years, except that for the first appointment members of the Ohio commission on aging who were serving on the commission immediately prior to July 26, 1984, shall become members of the council for the remainder of their unexpired terms. Thereafter, appointment to the council shall be for a three-year term by the governor. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of the term. Any member may continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ A successor takes office and shall be compensated for the period ~~he serves~~ served between the expiration of ~~his~~ the member's term and the beginning of ~~his~~ the successor's term.

(C) Membership of the council shall represent all areas of Ohio and shall be as follows:

(1) A majority of members of the council shall have attained the age of sixty and have a knowledge of and continuing interest in the affairs and welfare of the older citizens of Ohio. The fields of business, labor, health, law, and human services shall be represented in the membership.

(2) No more than seven members shall be of the same political party.

(D) Any member of the council may be removed from office by the governor for neglect of duty, misconduct, or malfeasance in office after being informed in writing of the charges and afforded an opportunity for a hearing. Two consecutive unexcused absences from regularly scheduled

meetings constitute neglect of duty.

(E) Members of the council shall be compensated at the rate of fifty dollars for each day actually employed in the discharge of official duties but not to exceed two thousand dollars per year and in addition shall be allowed actual and necessary expenses.

(F) Council members are not limited as to the number of terms they may serve.

(G) Council members shall not be interested directly or indirectly in any contract awarded by the department of aging.

Sec. 173.17. (A) The state long-term care ombudsperson shall do all of the following:

(1) Appoint a staff and direct and administer the work of the staff;

(2) Supervise the nursing home investigative unit established under division (I) of section 173.01 of the Revised Code;

(3) Oversee the performance and operation of the office of the state long-term care ombudsperson program, including the operation of regional long-term care ombudsperson programs;

(4) Establish and maintain a statewide uniform reporting system to collect and analyze information relating to complaints and conditions in long-term care facilities and complaints regarding the provision of community-based long-term care services for the purpose of identifying and resolving significant problems;

(5) Provide for public forums to discuss concerns and problems relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of residents and recipients of services by providers of long-term care and their representatives, public agencies and entities, and social service agencies. This may include any of the following: conducting public hearings; sponsoring workshops and conferences; holding meetings for the purpose of obtaining information about residents and recipients, discussing and publicizing their needs, and advocating solutions to their problems; and promoting the development of citizen organizations.

(6) Encourage, cooperate with, and assist in the development and operation of services to provide current, objective, and verified information about long-term care;

(7) Develop and implement, with the assistance of regional programs, a continuing program to publicize, through the media and civic organizations, the office, its purposes, and its methods of operation;

(8) Maintain written descriptions of the duties and qualifications of representatives of the office;

(9) Evaluate and make known concerns and issues regarding long-term

care by doing all of the following:

(a) Preparing an annual report containing information and findings regarding the types of problems experienced by residents and recipients and the complaints made by or on behalf of residents and recipients. The report shall include recommendations for policy, regulatory, and legislative changes to solve problems, resolve complaints, and improve the quality of care and life for residents and recipients and shall be submitted to the governor, the speaker of the house of representatives, the president of the senate, the directors of ~~the departments of~~ health and ~~human~~ of job and family services, and the commissioner of the administration on aging of the United States department of health and human services.

(b) Monitoring and analyzing the development and implementation of federal, state, and local laws, rules, and policies regarding long-term care services in this state and recommending to officials changes the office considers appropriate in these laws, rules, and policies;

(c) Providing information and making recommendations to public agencies, members of the general assembly, and others regarding problems and concerns of residents and recipients.

(10) Conduct training for employees and volunteers on ombudsperson's staff and for representatives of the office employed by regional programs;

(11) Monitor the training of representatives of the office who provide volunteer services to regional programs, and provide technical assistance to the regional programs in conducting the training;

(12) Issue certificates attesting to the successful completion of training and specifying the level of responsibility for which a representative of the office who has completed training is qualified;

(13) Register as a residents' rights advocate with the department of health under division (B) of section 3701.07 of the Revised Code;

(14) Perform other duties specified by the department of aging.

(B) The state ombudsperson may delegate any of the ombudsperson's authority or duties under sections 173.14 to 173.26 of the Revised Code to any member of the ombudsperson's staff. The state ombudsperson is responsible for any authority or duties the ombudsperson delegates.

Sec. 173.35. (A) As used in this section, "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program created under section 173.40 of the Revised Code.

(B) The department of aging shall administer the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under

Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients who the department determines are at risk of needing institutional care.

(C) For an individual to be eligible for residential state supplement payments, all of the following must be the case:

(1) Except as provided by division (G) of this section, the individual must reside in one of the following:

(a) An adult foster home certified under section 173.36 of the Revised Code;

(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. or 3722. of the Revised Code;

(c) A community alternative home licensed under section 3724.03 of the Revised Code;

(d) A residential facility as defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by the department of mental health;

(e) An apartment or room used to provide community mental health housing services certified by the department of mental health under division (M) of section 5119.61 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(13) of section 340.03 of the Revised Code.

(2) Effective July 1, 2000, a PASSPORT administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for supplemental security income payments or social security disability insurance benefits because of a mental disability, the PASSPORT administrative agency shall refer the individual to a community mental health agency for the community mental health agency to issue in accordance with section 340.091 of the Revised Code a recommendation on whether the PASSPORT administrative agency should determine that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. Division (C)(2) of this section does not apply to an individual receiving residential state supplement payments on June 30, 2000, until the individual's first eligibility redetermination after that date.

(3) The individual satisfies all eligibility requirements established by rules adopted under division (D) of this section.

(D) The ~~departments~~ directors of aging and ~~human~~ job and family

services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the ~~department~~ director of ~~human~~ job and family services shall adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The ~~department~~ director of ~~human~~ job and family services also shall adopt rules that establish eligibility standards for aged, blind, or disabled individuals who reside in one of the homes or facilities specified in division (C)(1) of this section but who, because of their income, do not receive supplemental security income payments. The rules may provide that these individuals may include individuals who receive other types of benefits, including social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended. Notwithstanding division (B) of this section, such payments may be made if funds are available for them.

The ~~department~~ director of aging shall adopt rules establishing the method to be used to determine the amount an eligible individual will receive under the program. The amount the general assembly appropriates for the program shall be a factor included in the method that department establishes.

(E) The county department of ~~human~~ job and family services of the county in which an applicant for the residential state supplement program resides shall determine whether the applicant meets income and resource requirements for the program.

(F) The department of aging shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division (C)(1) of this section at the time of application. The ~~department~~ director of aging, by rules adopted in accordance with Chapter 119. of the Revised Code, shall specify procedures and requirements for placing an individual on the waiting list. Individuals on the waiting list who reside in a community setting not required to be licensed or certified shall have their eligibility for the payments assessed before other individuals on the waiting

list.

(G) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

(H) The department of aging shall notify each person denied approval for payments under this section of the person's right to a hearing. On request, the hearing shall be provided by the department of ~~human~~ job and family services in accordance with section 5101.35 of the Revised Code.

Sec. 173.40. There is hereby created a program to be known as the preadmission screening system providing options and resources today program, or PASSPORT. Through the medical assistance program established under Chapter 5111. of the Revised Code, the program shall provide home and community-based services as an alternative to nursing facility placement for aged and disabled persons. The program shall be operated pursuant to a home and community-based waiver granted by the United States secretary of health and human services under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396n, as amended. The department of aging shall administer the program. The department of aging shall enter into an interagency agreement with the department of ~~human~~ job and family services regarding services provided under the program to recipients of medical assistance under Chapter 5111. of the Revised Code. The ~~departments~~ directors of aging and ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the program.

Sec. 176.05. (A)(1) Notwithstanding any provision of law to the contrary, the rate of wages payable for the various occupations covered by sections 4115.03 to 4115.16 of the Revised Code to persons employed on a project who are not any of the following shall be determined according to this section:

(a) Qualified volunteers;

(b) Persons required to participate in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code except those engaged in paid employment or subsidized employment pursuant to the activity;

(c) Food stamp benefit recipients required to participate in employment and training activities established by rules adopted under section 5101.54 of the Revised Code.

An association representing the general contractors or subcontractors that engage in the business of residential construction in a certain locality shall negotiate with the applicable building and construction trades council in that locality an agreement or understanding that sets forth the residential prevailing rate of wages, payable on projects in that locality, for each of the occupations employed on those projects.

(2) Notwithstanding any residential prevailing rate of wages established prior to July 1, 1995, if, by October 1, 1995, the parties are unable to agree under division (A)(1) of this section as to the rate of wages payable for each occupation covered by sections 4115.03 to 4115.16 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall establish the rate of wages payable for each occupation.

(3) The residential prevailing rate of wages established under division (A)(1) or (2) of this section shall not be equal to or greater than the prevailing rate of wages determined by the ~~administrator~~ director pursuant to sections 4115.03 to 4115.16 of the Revised Code for any of the occupations covered by those sections.

(B) Except for the prevailing rate of wages determined by the ~~administrator~~ director pursuant to sections 4115.03 to 4115.16 of the Revised Code, those sections and section 4115.99 of the Revised Code apply to projects.

(C) The residential prevailing rate of wages established under division (A) of this section is not payable to any individual or member of that individual's family who provides labor in exchange for acquisition of the property for homeownership or who provides labor in place of or as a supplement to any rental payments for the property.

(D) For the purposes of this section:

(1) "Project" means any construction, rehabilitation, remodeling, or improvement of residential housing, whether on a single or multiple site for which a person, as defined in section 1.59 of the Revised Code, or municipal corporation, county, or township receives financing, that is financed in whole or in part from state moneys or pursuant to this chapter, section 133.51 or 307.698 of the Revised Code, or Chapter 175. of the Revised Code, except for any of the following:

(a) The single-family mortgage revenue bonds homeownership program under Chapter 175. of the Revised Code, including owner-occupied dwellings of one to four units;

(b) Projects consisting of fewer than six units developed by any entity that is not a nonprofit organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(c) Projects of fewer than twenty-five units developed by any nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(d) Programs undertaken by any municipal corporation, county, or township, including lease-purchase programs, using mortgage revenue bond financing;

(e) Any individual project, that is sponsored or developed by a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, for which the federal government or any of its agencies furnishes by loan, grant, low-income housing tax credit, or insurance more than twelve per cent of the costs of the project. For purposes of division (D)(2)(e) of this section, the value of the low-income housing tax credits shall be calculated as the proceeds from the sale of the tax credits, less the costs of the sale.

As used in division (D)(1)(e) of this section, "sponsored" means that the general partner of a limited partnership owning the project is either a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or a person, as defined in section 1.59 of the Revised Code, in which such a nonprofit organization maintains controlling interest.

Nothing in division (D)(1)(e) of this section shall be construed as permitting unrelated projects to be combined for the sole purpose of determining the total percentage of project costs furnished by the federal government or any of its agencies.

(2) A "project" is a "public improvement" and the state or a political subdivision that undertakes or participates in the financing of a project is a "public authority," as both of the last two terms are defined in section 4115.03 of the Revised Code.

(3) "Qualified volunteers" are volunteers who are working without compensation for a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and that is providing housing or housing assistance only to families and individuals in a county whose incomes are not greater than one hundred forty per cent of the median income of that county as determined under section 175.23 of the Revised Code.

Sec. 307.01. (A) A courthouse, jail, public comfort station, offices for county officers, and a county home shall be provided by the board of county commissioners when, in its judgment, any of them are needed. The buildings and offices shall be of such style, dimensions, and expense as the board determines. All new jails and renovations to existing jails shall be

designed, and all existing jails shall be operated in such a manner as to comply substantially with the minimum standards for jails in Ohio adopted by the department of rehabilitation and correction. The board shall also provide equipment, stationery, and postage, as it considers reasonably necessary for the proper and convenient conduct of county offices, and such facilities as will result in expeditious and economical administration of such offices, except that, for the purpose of obtaining federal or state reimbursement, the board may impose on the public children services agency reasonable charges, not exceeding the amount for which reimbursement will be made and consistent with cost-allocation standards adopted by the department of ~~human~~ job and family services, for the provision of office space, supplies, stationery, utilities, telephone use, postage, and general support services.

The board of county commissioners shall provide all rooms, fireproof and burglarproof vaults, safes, and other means of security in the office of the county treasurer that are necessary for the protection of public moneys and property in the office.

(B) The court of common pleas shall annually submit a written request for an appropriation to the board of county commissioners that shall set forth estimated administrative expenses of the court that the court considers reasonably necessary for its operation. The board shall conduct a public hearing with respect to the written request submitted by the court and shall appropriate the amount of money each year that it determines, after conducting the public hearing and considering the written request of the court, is reasonably necessary to meet all administrative expenses of the court.

If the court considers the appropriation made by the board pursuant to this division insufficient to meet all the administrative expenses of the court, it shall commence an action under Chapter 2731. of the Revised Code in the court of appeals for the judicial district for a determination of the duty of the board of county commissioners to appropriate the amount of money in dispute. The court of appeals shall give priority to the action filed by the court of common pleas over all cases pending on its docket. The burden shall be on the court of common pleas to prove that the appropriation requested is reasonably necessary to meet all its administrative expenses. If, prior to the filing of an action under Chapter 2731. of the Revised Code or during the pendency of the action, any judge of the court exercises the contempt power of the court of common pleas in order to obtain the amount of money in dispute, the judge shall not order the imprisonment of any member of the board of county commissioners notwithstanding sections

2705.02 to 2705.06 of the Revised Code.

(C) Division (B) of this section does not apply to appropriations for the probate court or the juvenile court that are subject to section 2101.11 or 2151.10 of the Revised Code.

Sec. 307.441. (A) The board of county commissioners of each county may procure a policy or policies of insurance insuring the county recorder and the clerk of the court of common pleas and their deputies against liability on account of errors or omissions unknowingly made by them and for which they may be held liable.

The policy or policies of insurance shall be in an amount of not less than fifty thousand dollars.

(B) The board of county commissioners of each county may procure a policy or policies of insurance insuring the sheriff and his deputies against liability arising from the performance of their official duties.

(C) The board of county commissioners of each county may procure a policy or policies of insurance insuring the prosecuting attorney and assistant prosecuting attorneys against liability arising from the performance of their official duties.

(D) The board of county commissioners of each county may procure a policy or policies of insurance insuring the coroner, county engineer, county auditor, each county commissioner, and the county treasurer and their assistants against liability arising from the performance of their official duties.

(E) The board of county commissioners of each county may procure a policy or policies of insurance insuring any county employee against liability arising from the performance of his official duties.

(F) If the board of county commissioners of any county procures a policy or policies of insurance insuring any county official against liability arising from the performance of his official duties as provided by divisions (A) to (D) of this section, it shall not refuse to procure a policy or policies of insurance insuring any other county official as authorized in those divisions, if such policy or policies are reasonably available.

(G) The board of county commissioners of any county may procure a policy or policies of insurance insuring the county director of ~~human~~ job and family services, county department of ~~human~~ job and family services employees, or foster parents associated with the county department of ~~human~~ job and family services, against liability arising from the performance of their official duties.

(H) The board of county commissioners of each county may procure a policy or policies of insurance insuring the county public defender and the

members of the county public defender commission against liability arising from the performance of their official duties. A joint board of county commissioners formed pursuant to section 120.23 of the Revised Code may, in accordance with the agreement of the participating boards of county commissioners, procure a policy or policies of insurance insuring the joint county public defender and the members of the joint county public defender commission against liability arising from the performance of their official duties.

(I) The board of county commissioners of each county may procure a policy or policies of insurance insuring the judges of the court of common pleas and any county court in the county, and the employees of those courts, against liability arising from the performance of their official duties.

Sec. 307.98. Each board of county commissioners shall enter into a written partnership agreement with the director of ~~human~~ job and family services in accordance with section 5101.21 of the Revised Code. Prior to entering into or substantially amending the agreement, the board shall conduct a public hearing and consult with the county ~~human~~ family services planning committee established under section 329.06 of the Revised Code. Through the hearing and consultation, the board shall obtain comments and recommendations concerning what would be the county's obligations and responsibilities under the agreement or amendment. As evidence that the board consulted with the county ~~human~~ family services planning committee, the committee's chair shall sign a letter confirming that the consultation occurred, which shall be attached to the partnership agreement and any substantial amendments to the agreement.

Sec. 329.01. In each county there shall be a county department of ~~human~~ job and family services which, when so established, shall be governed by this chapter. The department shall consist of a county director of ~~human~~ job and family services appointed by the board of county commissioners, and such assistants and other employees as are necessary for the efficient performance of the ~~human services~~ functions of the county department. Before entering upon the discharge of the director's official duties, the director shall give a bond, conditioned for the faithful performance of those official duties, in such sum as fixed by the board. The director may require any assistant or employee under the director's jurisdiction to give a bond in such sum as determined by the board. All bonds given under this section shall be with a surety or bonding company authorized to do business in this state, conditioned for the faithful performance of the duties of such director, assistant, or employee. The expense or premium for any bond required by this section shall be paid from

the appropriation for administrative expenses of the department. Such bond shall be deposited with the county treasurer and kept in the treasurer's office.

As used in the Revised Code:

(A) "County department of ~~human~~ job and family services" means the county department of ~~human~~ job and family services established under this section, including an entity designated a county department of ~~human~~ job and family services under section 307.981 of the Revised Code.

(B) "County director of ~~human~~ job and family services" means the county director of ~~human~~ job and family services appointed under this section.

Sec. 329.02. Under the control and direction of the board of county commissioners, the county director of ~~human~~ job and family services shall have full charge of the county department of ~~human~~ job and family services. The director shall prepare the annual budget estimate of the department and submit it to the board of county commissioners. Before submitting the budget estimate to the board of county commissioners, the director shall consider the recommendations of the county ~~human~~ family services planning committee relative to such estimate. The director, with the approval of the board of county commissioners, shall appoint all necessary assistants and superintendents of institutions under the jurisdiction of the department, and all other employees of the department, excepting that the superintendent of each such institution shall appoint all employees therein and only the board of county commissioners may appoint administrators under section 329.021 of the Revised Code. Except for administrators appointed under section 329.021 of the Revised Code, the assistants and other employees of the department shall be in the classified civil service, and may not be placed in or removed to the unclassified service. If no eligible list is available, provisional appointment shall be made until such eligible list is available.

Each director appointed on or after the effective date of this amendment shall be in the unclassified civil service and serve at the pleasure of the board of county commissioners. If a person holding a classified position in the department is appointed as director on or after the effective date of this amendment and is later removed by the board, except for a reason listed in section 124.34 of the Revised Code, the person so removed has the right to resume the position the person held in the classified service immediately prior to being appointed as director, or if that position no longer exists or has become an unclassified position, the person shall be appointed to a position in the classified service that the board, with the approval of the director of administrative services, determines is equivalent to the position the person

held immediately prior to being appointed as director.

The board of county commissioners, except as provided in this chapter, may provide by resolution for the coordination of the operations of the department and those of any county institution whose board or managing officer is appointed by the board of county commissioners.

The board of county commissioners may enter into a written contract with a county director of ~~human~~ job and family services specifying terms and conditions of the director's employment. The period of the contract shall not exceed three years. In addition to any review specified in such a contract, the contract shall be subject to review and renegotiation for a period of thirty days, from the sixtieth to the ninetieth days after the beginning of the term of any newly elected commissioner. Such a contract shall in no way abridge the right of the board to terminate the employment of the director as an unclassified employee at will, but may specify terms and conditions of any such termination.

Sec. 329.021. The board of county commissioners serving a county with a population of more than one million people may, in addition to the county director of ~~human~~ job and family services, appoint not more than five administrators to oversee services provided by the county department of ~~human~~ job and family services. The administrators shall be in the unclassified civil service and serve at the pleasure of the board of county commissioners.

Sec. 329.022. Within the appropriation for personal services, each county department of ~~human~~ job and family services may employ the necessary employees who, except for the county director of ~~human~~ job and family services as provided in section 329.02 of the Revised Code, shall be in the classified service. Compensation for positions in each service, group, or grade established by the director of administrative services shall not be less than the minimum nor more than the maximum rates established by the director for such positions. The department of ~~human~~ job and family services shall cooperate with the director in establishing the qualifications of persons to be employed and the classification and rates of compensation of county department employees.

Sec. 329.023. Each county department of ~~human~~ job and family services shall have hours of operation outside the county department's normal hours of operation during which the county department will accept from employed individuals applications for the programs administered by the county department and assist employed program recipients and participants with matters related to the programs.

Sec. 329.03. (A) As used in this section:

(1) "Applicant" or "recipient" means an applicant for or participant in the Ohio works first program established under Chapter 5107. of the Revised Code or an applicant for or recipient of disability assistance under Chapter 5115. of the Revised Code.

(2) "Voluntary direct deposit" means a system established pursuant to this section under which cash assistance payments to recipients who agree to direct deposit are made by direct deposit by electronic transfer to an account in a financial institution designated under this section.

(3) "Mandatory direct deposit" means a system established pursuant to this section under which cash assistance payments to all participants in the Ohio works first program or recipients of disability assistance, other than those exempt under division (E) of this section, are made by direct deposit by electronic transfer to an account in a financial institution designated under this section.

(B) A board of county commissioners may by adoption of a resolution require the county department of ~~human~~ job and family services to establish a direct deposit system for distributing cash assistance payments under Ohio works first, disability assistance, or both, unless the director of ~~human~~ job and family services has provided for those payments to be made by electronic benefit transfer pursuant to section 5101.33 of the Revised Code. Voluntary or mandatory direct deposit may be applied to either of the programs. The resolution shall specify for each program for which direct deposit is to be established whether direct deposit is voluntary or mandatory. The board may require the department to change or terminate direct deposit by adopting a resolution to change or terminate it. Within ninety days after adopting a resolution under this division, the board shall certify one copy of the resolution to the ~~state~~ director of ~~human~~ job and family services and one copy to the office of budget and management. The ~~state department~~ director of ~~human~~ job and family services may adopt rules governing establishment of direct deposit by county departments of ~~human~~ job and family services.

The county department of ~~human~~ job and family services shall determine what type of account will be used for direct deposit and negotiate with financial institutions to determine the charges, if any, to be imposed by a financial institution for establishing and maintaining such accounts. Under voluntary direct deposit, the county department of ~~human~~ job and family services may pay all charges imposed by a financial institution for establishing and maintaining an account in which direct deposits are made for a recipient. Under mandatory direct deposit, the county department of ~~human~~ job and family services shall pay all charges imposed by a financial institution for establishing and maintaining such an account. No financial

stitution shall impose any charge for such an account that the institution does not impose on its other customers for the same type of account. Direct deposit does not affect the exemption of Ohio works first and disability assistance from attachment, garnishment, or other like process afforded by sections 5107.75 and 5115.07 of the Revised Code.

(C) The county department of ~~human~~ job and family services shall, within sixty days after a resolution requiring the establishment of direct deposit is adopted, establish procedures governing direct deposit.

Within one hundred eighty days after the resolution is adopted, the county department shall:

(1) Inform each applicant or recipient of the procedures governing direct deposit, including in the case of voluntary direct deposit those that prescribe the conditions under which a recipient may change from one method of payment to another;

(2) Obtain from each applicant or recipient an authorization form to designate a financial institution equipped for and authorized by law to accept direct deposits by electronic transfer and the account into which the applicant or recipient wishes the payments to be made, or in the case of voluntary direct deposit states the applicant's or recipient's election to receive such payments in the form of a paper warrant.

The department may require a recipient to complete a new authorization form whenever the department considers it necessary.

A recipient's designation of a financial institution and account shall remain in effect until withdrawn in writing or dishonored by the financial institution, except that no change may be made in the authorization form until the next eligibility redetermination of the recipient unless the department feels that good grounds exist for an earlier change.

(D) An applicant or recipient without an account who either agrees or is required to receive payments by direct deposit shall have ten days after receiving the authorization form to designate an account suitable for direct deposit. If within the required time the applicant or recipient does not make the designation or requests that the department make the designation, the department shall designate a financial institution and help the recipient to open an account.

(E) At the time of giving an applicant or recipient the authorization form, the county department of ~~human~~ job and family services of a county with mandatory direct deposit shall inform each applicant or recipient of the basis for exemption and the right to request exemption from direct deposit.

Under mandatory direct deposit, an applicant or recipient who wishes to receive payments in the form of a paper warrant shall record on the

authorization form a request for exemption under this division and the basis for the exemption.

The department shall exempt from mandatory direct deposit any recipient who requests exemption and is any of the following:

(1) Over age sixty-five;

(2) Blind or disabled;

(3) Likely, in the judgment of the department, to be caused personal hardship by direct deposit.

A recipient granted an exemption under this division shall receive payments for which the recipient is eligible in the form of paper warrants.

(F) The county department of ~~human~~ job and family services shall bear the full cost of the amount of any replacement warrant issued to a recipient for whom an authorization form as provided in this section has not been obtained within one hundred eighty days after the later of the date the board of county commissioners adopts a resolution requiring payments of financial assistance by direct deposit to accounts of recipients of Ohio works first or disability assistance or the date the recipient made application for assistance, and shall not be reimbursed by the state for any part of the cost. Thereafter, the county department of ~~human~~ job and family services shall continue to bear the full cost of each replacement warrant issued until the board of county commissioners requires the county department of ~~human~~ job and family services to obtain from each such recipient the authorization forms as provided in this section.

Sec. 329.041. In each county in which there is a county transit board established by section 306.01 of the Revised Code, a county transit system operated under that section, or a regional transit authority created under section 306.32 of the Revised Code, the county department of ~~human~~ job and family services shall meet not less than once each calendar quarter with transit representatives of the board, system, or authority. The department and transit representatives shall discuss the transportation needs of the county's Ohio works first participants, review existing efforts and develop new options to meet those needs, and measure the accomplishments of those efforts.

Sec. 329.042. The county department of ~~human~~ job and family services shall certify public assistance and nonpublic assistance households eligible under the "Food Stamp Act of 1964," 78 Stat. 703, 7 U.S.C.A. 2011, as amended, and federal and state regulations adopted pursuant to such act, to enable low-income households to participate in the food stamp program and thereby to purchase foods having a greater monetary value than is possible under public assistance standard allowances or other low-income budgets.

The county department of ~~human~~ job and family services shall administer the distribution of food stamp coupons under the supervision of the department of ~~human~~ job and family services. Such coupons shall be distributed by mail in accordance with sections 5101.541, 5101.542, and 5101.543 of the Revised Code, or by some alternative method approved by the department of ~~human~~ job and family services in accordance with the "Food Stamp Act of 1964," 78 Stat. 703, 7 U.S.C.A. 2011, as amended, and regulations issued thereunder.

The document referred to as the "authorization-to-participate card," which shows the face value of the coupon allotment an eligible household is entitled to receive on presentment of the document, shall be issued, immediately upon certification, to a household determined under division (C) of section 5101.54 of the Revised Code to be in immediate need of food assistance by being personally handed by a member of the staff of the county department of ~~human~~ job and family services to the member of the household in whose name application was made for participation in the program or ~~his~~ the authorized representative of such member of the household.

Sec. 329.051. The county department of ~~human~~ job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

(A) The disability assistance program established under Chapter 5115. of the Revised Code;

(B) The medical assistance program established under Chapter 5111. of the Revised Code;

(C) The Ohio works first program established under Chapter 5107. of the Revised Code;

(D) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

Sec. 329.07. As used in this section, "Ohio works first" and "Title IV-A" have the same meanings as in section 5107.02 of the Revised Code.

Each county department of ~~human~~ job and family services shall have at least one Ohio works first ombudsperson. A county department may provide for an Ohio works first participant who resides in the county the county department serves and is qualified to perform the duties of an ombudsperson to be an ombudsperson. If no Ohio works first participant residing in the county the county department serves is qualified to perform the duties of an ombudsperson, the county department shall provide for one or more

employees of the county department to be ombudspersons or contract with a person or government entity for the person or entity to perform the duties of an ombudsperson for the county department. To the extent permitted by federal law, the county department may use funds available under Title IV-A to provide for county department employees or a person or government entity under contract with the county department to perform the duties of an ombudsperson.

An Ohio works first ombudsperson shall help Ohio works first applicants and participants resolve complaints the applicants and participants have about the administration of Ohio works first and help participants contact caseworkers for the purpose of scheduling meetings under section 5107.161 of the Revised Code.

Sec. 329.10. All the property, records, files, and other documents and papers used in and necessary for the performance of the functions belonging to or in the possession of any board, agency, or department, the powers and duties of which are transferred to the county department of ~~human~~ job and family services, and the proceeds of all tax levies in process of collection for the use of such boards, agencies, or departments shall be transferred to the county department of ~~human~~ job and family services, when established. At the time the exercise of any powers and duties of any other board, agency, or department are transferred to the county department of ~~human~~ job and family services, or to any other board, agency, or department, all the property, records, files, and other documents and papers, the unexpended balances of all current appropriations, and the unappropriated proceeds of all tax levies then in process of collection for the use of such board, agency, or department shall be deemed transferred to the board, agency, or department to which such duties have been transferred.

Sec. 329.12. (A) A county department of ~~human~~ job and family services may establish an individual development account program for residents of the county. The program shall provide for establishment of accounts for participants and acceptance of contributions from individuals and entities, including the county department, to be used as matching funds for deposit in the accounts.

(B) A county department shall select a fiduciary organization to administer its individual development account program. In selecting a fiduciary organization, the department shall consider all of the following regarding the organization:

(1) Its ability to market the program to potential participants and matching fund contributors;

(2) Its ability to invest money in the accounts in a way that provides for

return with minimal risk of loss;

(3) Its overall administrative capacity, including the ability to verify eligibility of individuals for participation in the program, prevent unauthorized use of matching contributions, and enforce any penalties for unauthorized uses that may be provided for by rule adopted by the ~~state department~~ director of ~~human~~ job and family services under section 5101.971 of the Revised Code;

(4) Its ability to provide financial counseling to participants;

(5) Its affiliation with other activities designed to increase the independence of individuals and families through postsecondary education, home ownership, and business development;

(6) Any other factor the county department considers appropriate.

(C) At the time it commences the program and on the first day of each subsequent program year, the county department may make a grant to the fiduciary organization to pay all or part of the administrative costs of the program.

(D) The county department shall require the fiduciary organization to collect and maintain information regarding the program, including all of the following:

(1) The number of accounts established;

(2) The amount deposited by each participant and the amount matched by contributions;

(3) The uses of funds withdrawn from the account, including the number of participants who used funds for postsecondary educational expenses and the institutions attended, the number of personal residences purchased, and the number of participants who used funds for business capitalization;

(4) The demographics of program participants;

(5) The number of participants who withdrew from the program and the reasons for withdrawal.

(E) The county department shall prepare and file with the ~~state~~ department of ~~human~~ job and family services a ~~semi-annual~~ semiannual report containing the information the ~~state department~~ director of job and family services requires by rule adopted under section 5101.971 of the Revised Code, with the first report being filed at the end of the six-month period following October 1, 1997.

Sec. 329.14. (A) An individual whose household income does not exceed one hundred fifty per cent of the federal poverty line is eligible to participate in an individual development account program established by the county department of ~~human~~ job and family services of the county in which

the individual resides. An eligible individual seeking to be a participant in the program shall enter into an agreement with the fiduciary organization administering the program. The agreement shall specify the terms and conditions of uses of funds deposited, financial documentation required to be maintained by the participant, expectations and responsibilities of the participant, and services to be provided by the fiduciary organization.

(B) A participant may deposit earned income, as defined in 26 U.S.C. 911(d)(2), as amended, into the account. The fiduciary organization may deposit into the account an amount not exceeding twice the amount deposited by the participant except that a fiduciary organization may not, pursuant to an agreement with an employer, deposit an amount into an account held by a participant who is employed by the employer. An account may have no more than ten thousand dollars in it at any time.

(C) Notwithstanding eligibility requirements established in or pursuant to Chapter 5107., 5108., or 5111. of the Revised Code, to the extent permitted by federal statutes and regulations, money in an individual development account, including interest, is exempt from consideration in determining whether the participant or a member of the participant's assistance group is eligible for assistance under Chapter 5107., 5108., or 5111. of the Revised Code and the amount of assistance the participant or assistance group is eligible to receive.

(D)(1) Except as provided in division (D)(2) of this section, an individual development account program participant may use money in the account only for the following purposes:

(a) Postsecondary educational expenses paid directly from the account to an eligible education institution or vendor;

(b) Qualified acquisition expenses of a principal residence, as defined in 26 U.S.C. 1034, as amended, paid directly from the account to the person or government entity to which the expenses are due;

(c) Qualified business capitalization expenses made in accordance with a qualified business plan that has been approved by a financial institution or by a nonprofit microenterprise program having demonstrated business expertise and paid directly from the account to the person to whom the expenses are due.

(2) A fiduciary organization shall permit a participant to withdraw money deposited by the participant if it is needed to deal with a personal emergency of the participant or a member of the participant's family or household. Withdrawal shall result in the loss of any matching funds in an amount equal to the amount of the withdrawal.

(3) Regardless of the reason for the withdrawal, a withdrawal from an

individual development account may be made only with the approval of the fiduciary organization.

Sec. 331.02. A certificate of appointment to the county facilities review board shall be issued to the persons appointed under section 331.01 of the Revised Code, and a copy, giving full names and addresses, shall be sent to the central office of the department of ~~human~~ job and family services. No person shall be qualified to serve on the board who is in any manner officially connected with any charitable or correctional institution within the county supported wholly or partly at public expense.

Sec. 331.06. (A) Each year the county facilities review board shall prepare a full report of its proceedings during the year, with such recommendations as it considers advisable, file such report with the probate judge and the prosecuting attorney between the fifteenth day of November and the fifteenth day of December, forward a copy thereof to the central office of the department of ~~human~~ job and family services, and send a copy of that part of the report concerning correctional institutions to the department of rehabilitation and correction.

(B) The probate judge may, in that judge's discretion, order the publication of a summary of the annual report in a newspaper of general circulation within the county. The cost of such publication shall be paid by the county.

Sec. 742.41. (A) As used in this section:

(1) "Other system retirant" has the same meaning as in section 742.26 of the Revised Code.

(2) "Personal history record" includes a member's, former member's, or other system retirant's name, address, telephone number, social security number, record of contributions, correspondence with the Ohio police and fire pension fund, status of any application for benefits, and any other information deemed confidential by the trustees of the fund.

(B) The treasurer of state shall furnish annually to the board of trustees of the fund a sworn statement of the amount of the funds in the treasurer of state's custody ~~belong~~ belonging to the Ohio police and fire pension fund. The records of the board shall be open for public inspection except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal history record;

(2) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations required are privileged, except that copies of such medical reports or recommendations shall be

made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent or, when necessary for the proper administration of the fund, to the board-assigned physician.

(D) Any person who is a member of the fund or an other system retirant shall be furnished with a statement of the amount to the credit of the person's individual account upon the person's written request. The board need not answer more than one such request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following information:

(1) If a member, former member, or other system retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued under section 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the request of any organization or association of members of the fund, the board of trustees of the fund shall provide a list of the names and addresses of members of the fund and other system retirants. The board shall comply with the request of such organization or association at least once a year and may impose a reasonable charge for the list.

(4) Within fourteen days after receiving from the director of ~~human~~ job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member or other system retirant whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(F) A statement that contains information obtained from the board's records that is signed by the secretary of the board of trustees of the Ohio police and fire pension fund and to which the board's official seal is affixed, or copies of the board's records to which the signature and seal are attached, shall be received as true copies of the board's records in any court or before

any officer of this state.

Sec. 1347.08. (A) Every state or local agency that maintains a personal information system, upon the request and the proper identification of any person who is the subject of personal information in the system, shall:

(1) Inform the person of the existence of any personal information in the system of which the person is the subject;

(2) Except as provided in divisions (C) and (E)(2) of this section, permit the person, the person's legal guardian, or an attorney who presents a signed written authorization made by the person, to inspect all personal information in the system of which the person is the subject;

(3) Inform the person about the types of uses made of the personal information, including the identity of any users usually granted access to the system.

(B) Any person who wishes to exercise a right provided by this section may be accompanied by another individual of the person's choice.

(C)(1) A state or local agency, upon request, shall disclose medical, psychiatric, or psychological information to a person who is the subject of the information or to the person's legal guardian, unless a physician, psychiatrist, or psychologist determines for the agency that the disclosure of the information is likely to have an adverse effect on the person, in which case the information shall be released to a physician, psychiatrist, or psychologist who is designated by the person or by the person's legal guardian.

(2) Upon the signed written request of either a licensed attorney at law or a licensed physician designated by the inmate, together with the signed written request of an inmate of a correctional institution under the administration of the department of rehabilitation and correction, the department shall disclose medical information to the designated attorney or physician as provided in division (C) of section 5120.21 of the Revised Code.

(D) If an individual who is authorized to inspect personal information that is maintained in a personal information system requests the state or local agency that maintains the system to provide a copy of any personal information that the individual is authorized to inspect, the agency shall provide a copy of the personal information to the individual. Each state and local agency may establish reasonable fees for the service of copying, upon request, personal information that is maintained by the agency.

(E)(1) This section regulates access to personal information that is maintained in a personal information system by persons who are the subject of the information, but does not limit the authority of any person, including

a person who is the subject of personal information maintained in a personal information system, to inspect or have copied, pursuant to section 149.43 of the Revised Code, a public record as defined in that section.

(2) This section does not provide a person who is the subject of personal information maintained in a personal information system, the person's legal guardian, or an attorney authorized by the person, with a right to inspect or have copied, or require an agency that maintains a personal information system to permit the inspection of or to copy, a confidential law enforcement investigatory record or trial preparation record, as defined in divisions (A)(2) and (4) of section 149.43 of the Revised Code.

(F) This section does not apply to any of the following:

(1) The contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(2) Information contained in the putative father registry established by section 3107.062 of the ~~Revise~~ Revised Code, regardless of whether the information is held by the department of ~~human~~ job and family services or, pursuant to section 5101.313 of the Revised Code, the division of child support in the department or a child support enforcement agency;

(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;

(4) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;

(6) Files and records that have been expunged under division (D)(1) of section 3721.23 of the Revised Code;

(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;

(8) Records that identify an individual described in division (A)(1) of section 5111.61 of the Revised Code, or that would tend to identify such an individual.

Sec. 1553.10. (A) There is hereby created in the division of civilian conservation the civilian conservation advisory committee, which shall consist of nine members. The committee shall advise the chief of the division of civilian conservation in the implementation and operation of conservation programs established under this chapter. The committee shall be composed of three members appointed by the governor, two of whom

shall represent labor and one of whom shall represent vocational education; one member of the senate appointed by the president; one member of the house of representatives appointed by the speaker; three members-at-large appointed by the director of natural resources to represent the interests of all persons in this state; and one member ~~from~~ who is an employee of the ~~bureau~~ department of ~~employment~~ job and family services to be designated by the ~~administrator~~ director of ~~the bureau~~ job and family services. Terms of office shall commence on the first day of January and end on the last day of December. Of the initial terms of office, four terms shall end on December 31, 1990, and three terms shall end on December 31, 1991, to be determined by lot. Thereafter, terms of office shall be for four years. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Each member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The committee shall select from among its members a chairperson and a vice-chairperson, who shall each serve for a period of one year or until the term of the chairperson or vice-chairperson expires, whichever occurs first. Members of the committee shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in attending meetings of the committee. The committee shall meet at least once each quarter of each calendar year and shall keep a record of its proceedings that shall be available to the public for inspection.

The chief shall act as executive director of the committee. The division shall furnish technical, legal, and other services required by the committee in the performance of its duties.

(B) For the purpose of assisting in the effective implementation and operation of civilian conservation programs established under this chapter, the committee shall do all of the following:

(1) Recommend to the chief broad policies for the division and a long-range plan to implement the policies;

(2) Evaluate the division's needs to meet its policy objectives, including planning, programming, and financing;

(3) Recommend to the chief ways of cooperating with other conservation programs administered by private and public agencies.

Sec. 1701.86. (A) A corporation may be dissolved voluntarily in the manner provided in this section, provided the provisions of Chapter 1704. of

the Revised Code do not prevent the dissolution from being effected.

(B) A resolution of dissolution for a corporation shall set forth:

(1) That the corporation elects to be dissolved;

(2) Any additional provision considered necessary with respect to the proposed dissolution and winding up.

(C) If an initial stated capital is not set forth in the articles then before the corporation begins business, or if an initial stated capital is set forth in the articles then before subscriptions to shares shall have been received in the amount of that initial stated capital, the incorporators or a majority of them may adopt, by a writing signed by them, a resolution of dissolution.

(D) The directors may adopt a resolution of dissolution in the following cases:

(1) When the corporation has been adjudged bankrupt or has made a general assignment for the benefit of creditors;

(2) By leave of the court, when a receiver has been appointed in a general creditors' suit or in any suit in which the affairs of the corporation are to be wound up;

(3) When substantially all of the assets have been sold at judicial sale or otherwise;

(4) When the articles have been canceled for failure to file annual franchise or excise tax returns or for failure to pay franchise or excise taxes and the corporation has not been reinstated or does not desire to be reinstated;

(5) When the period of existence of the corporation specified in its articles has expired.

(E) The shareholders at a meeting held for such purpose may adopt a resolution of dissolution by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on such proposal or, if the articles provide or permit, by the affirmative vote of a greater or lesser proportion, though less than a majority, of such voting power, and by such affirmative vote of the holders of shares of any particular class as is required by the articles. Notice of the meeting of the shareholders shall be given to all the shareholders whether or not entitled to vote at it.

(F) Upon the adoption of a resolution of dissolution, a certificate shall be prepared, on a form prescribed by the secretary of state, setting forth the following:

(1) The name of the corporation;

(2) A statement that a resolution of dissolution has been adopted;

(3) A statement of the manner of adoption of such resolution, and, in the

case of its adoption by the incorporators or directors, a statement of the basis for such adoption;

(4) The place in this state where its principal office is or is to be located;

(5) The names and addresses of its directors and officers, unless the resolution of dissolution is adopted by the incorporators, in which event the names and addresses of the incorporators shall be set forth in the certificate;

(6) The name and address of its statutory agent.

(G) Such certificate shall be signed as follows:

(1) When the resolution of dissolution is adopted by the incorporators or a majority of them, the certificate shall be signed by not less than a majority of them;

(2) When the resolution is adopted by the directors or by the shareholders, the certificate shall be signed by any authorized officer, unless the officer fails to execute and file such certificate within thirty days after the adoption of the resolution or upon any date specified in the resolution as the date upon which such certificate is to be filed or upon the expiration of any period specified in the resolution as the period within which such certificate is to be filed, whichever is latest, in which event the certificate of dissolution may be signed by any three shareholders and shall set forth a statement that the persons signing the certificate are shareholders and are filing the certificate because of the failure of the officers to do so.

(H) A certificate of dissolution, filed with the secretary of state, shall be accompanied by:

(1) An affidavit of one or more of the persons executing the certificate of dissolution or of an officer of the corporation containing a statement of the counties, if any, in this state in which the corporation has personal property or a statement that the corporation is of a type required to pay personal property taxes to state authorities only;

(2) A receipt, certificate, or other evidence showing the payment of all franchise, sales, use, and highway use taxes accruing up to the date of such filing, or that such payment has been adequately guaranteed;

(3) A receipt, certificate, or other evidence showing the payment of all personal property taxes accruing up to the date of such filing;

(4) A receipt, certificate, or other evidence from the ~~bureau~~ director of ~~employment~~ job and family services showing that all contributions due from the corporation as an employer have been paid, or that such payment has been adequately guaranteed, or that the corporation is not subject to such contributions;

(5) A receipt, certificate, or other evidence from the bureau of workers' compensation showing that all premiums due from the corporation as an

ployer have been paid, or that such payment has been adequately guaranteed, or that the corporation is not subject to such premium payments;

(6) In lieu of the receipt, certificate, or other evidence described in division (H)(2), (3), (4), or (5) of this section, an affidavit of one or more persons executing the certificate of dissolution or of an officer of the corporation containing a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled date of filing of the certificate of dissolution and was advised in writing of the acknowledgment by the corporation of the applicability of the provisions of section 1701.95 of the Revised Code.

(I) Upon the filing of a certificate of dissolution and such accompanying documents, the corporation shall be dissolved.

Sec. 1702.47. (A) A corporation may be dissolved voluntarily in the manner provided in this section.

(B) A resolution of dissolution for a corporation shall set forth:

(1) That the corporation elects to be dissolved;

(2) Any additional provision deemed necessary with respect to the proposed dissolution and winding up.

(C) The trustees may adopt a resolution of dissolution in the following cases:

(1) When the corporation has been adjudged bankrupt or has made a general assignment for the benefit of creditors;

(2) By leave of the court, when a receiver has been appointed in a general creditors' suit or in any suit in which the affairs of the corporation are to be wound up;

(3) When substantially all of the assets have been sold at judicial sale or otherwise;

(4) When the period of existence of the corporation specified in its articles has expired.

(D) The voting members at a meeting held for such purpose may adopt a resolution of dissolution by the affirmative vote of a majority of the voting members present if a quorum is present or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by such affirmative vote of the voting members of any particular class as is required by the articles or the regulations. Notice of the meeting of the members shall be given to all the members whether or not entitled to vote thereat.

(E) Upon the adoption of a resolution of dissolution, a certificate shall be prepared, on a form prescribed by the secretary of state, setting forth the following:

(1) The name of the corporation;

(2) A statement that a resolution of dissolution has been adopted;

(3) A statement of the manner of adoption of such resolution, and, in the case of its adoption by the trustees, a statement of the basis for such adoption;

(4) The place in this state where its principal office is or is to be located;

(5) The names and addresses of its trustees and officers;

(6) The name and address of its statutory agent.

(F) Such certificate shall be signed by any authorized officer, unless the officer fails to execute and file such certificate within thirty days after the adoption of the resolution, or upon any date specified in the resolution as the date upon which such certificate is to be filed, or upon the expiration of any period specified in the resolution as the period within which such certificate is to be filed, whichever is latest, in which event the certificate of dissolution may be signed by any three voting members and shall set forth a statement that the persons signing the certificate are voting members and are filing the certificate because of the failure of the officers to do so.

(G) A certificate of dissolution, filed with the secretary of state, shall be accompanied by:

(1) An affidavit of one or more of the persons executing the certificate of dissolution or of an officer of the corporation containing a statement of the counties, if any, in this state in which the corporation has personal property subject to personal property taxes or a statement that the corporation is of a type required to pay personal property taxes to state authorities only;

(2) A receipt, certificate, or other evidence showing the payment of all personal property taxes accruing up to the date of such filing, unless the affidavit provided for in division (G)(1) of this section states that the corporation has in this state no personal property subject to personal property taxes;

(3) A receipt, certificate, or other evidence from the ~~bureau~~ director of ~~employment~~ job and family services showing that all contributions due from the corporation as an employer have been paid, or that such payment has been adequately guaranteed, or that the corporation is not subject to such contributions;

(4) A receipt, certificate, or other evidence showing the payment of all sales, use, and highway use taxes accruing up to the date of such filing, or that such payment has been adequately guaranteed;

(5) In lieu of the receipt, certificate, or other evidence described in division (G)(2), (3), or (4) of this section, an affidavit of one or more of the

persons executing the certificate of dissolution or of an officer of the corporation containing a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled date of the filing of the certificate of dissolution and was advised in writing of the acknowledgement by the corporation of the applicability of section 1702.55 of the Revised Code.

(H) Upon the filing of a certificate of dissolution and such accompanying documents, the corporation shall be dissolved.

Sec. 1703.17. (A) A foreign corporation may surrender its license to transact business in this state in the manner provided in this section.

(B) A certificate of surrender signed by any authorized officer, or by the receiver, trustee in bankruptcy, or other liquidator of such corporation, shall be filed with the secretary of state, on a form prescribed by the secretary of state, setting forth:

(1) The name of the corporation and of the state under the laws of which it is incorporated;

(2) That it surrenders its license;

(3) The address to which the secretary of state may mail any process against such corporation that may be served upon the secretary of state, and may mail any other notices, certificates, or statements.

(C) A certificate of surrender, filed with the secretary of state, on a form prescribed by the secretary of state, shall be accompanied by:

(1) A receipt, certificate, or other evidence showing the payment of all franchise, sales, use, and highway use taxes accruing up to the date of such filing, or that such payment has been adequately guaranteed;

(2) A receipt, certificate, or other evidence showing the payment of all personal property taxes accruing up to the date of such filing;

(3) A receipt, certificate, or other evidence from the ~~bureau~~ director of ~~employment~~ job and family services showing that all contributions due from the corporation as an employer have been paid, or that such payment has been adequately guaranteed, or that the corporation is not subject to such contributions;

(4) An affidavit of the officer, or other person permitted by law, executing the certificate of surrender, containing a statement of the counties, if any, in this state in which the corporation has personal property or a statement that the corporation is of a type required to pay personal property taxes to state authorities only.

(D) In lieu of the receipt, certificate, or other evidence described in divisions (C)(1), (2), and (3) of this section, a certificate of surrender may be accompanied by an affidavit of the person executing the certificate of

surrender, or of an officer of the corporation, that contains a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled date of filing the certificate of surrender and was advised in writing of the acknowledgement by the corporation that the surrender of its license does not relieve it of liability, if any, for payment of the taxes and contributions described in divisions (C)(1), (2), and (3) of this section.

(E) In lieu of filing such certificate of surrender there may be filed a certificate of the secretary of state, or other proper official, of the state under the laws of which the corporation is incorporated, certifying that said corporation has been dissolved or its corporate existence otherwise terminated, or a certified copy of an order of court terminating the existence of such corporation; but such certificate or certified copy shall be accompanied by the information required by division (B)(3) of this section.

(F) For filing any such certificate or certified copy under this section, there shall be paid to the secretary of state a filing fee of twenty-five dollars. The secretary of state shall thereupon cancel the license of such corporation, make a notation of such cancellation upon the secretary of state's records, and mail to the corporation a certificate of the action so taken.

(G) The mere retirement from business of a foreign corporation without filing a certificate of surrender shall not exempt such corporation from the requirements of filing the reports and paying the fees required by sections 1703.01 to 1703.31 of the Revised Code, or from making reports and paying excise or franchise fees or taxes.

Sec. 1729.55. (A) An association may be dissolved voluntarily in the manner provided in this section.

(B) A resolution of dissolution for an association shall state both of the following:

(1) That the association elects to be dissolved;

(2) Any additional provision considered necessary with respect to the proposed dissolution and winding up.

(C) Before subscriptions for membership and any stock or other ownership interest have been received, the incorporators or a majority of the incorporators may adopt, by a writing signed by them, a resolution of dissolution.

(D) The directors may adopt a resolution of dissolution in the following cases:

(1) When the association has been adjudged bankrupt or has made a general assignment for the benefit of creditors;

(2) By leave of the court, when a receiver has been appointed in a

general creditors' suit or in any suit in which the affairs of the association are to be wound up;

(3) When substantially all of the assets have been sold at judicial sale or otherwise;

(4) When the articles of incorporation have been canceled for failure to file annual franchise or excise tax returns or for failure to pay franchise or excise taxes and the association has not been reinstated or does not desire to be reinstated;

(5) When the period of existence of the association specified in its articles has expired.

(E) At a meeting held for such purpose, the members may adopt a resolution of dissolution by the affirmative vote of sixty per cent of the member votes cast on such proposal or, if the articles provide or permit, by the affirmative vote of a greater or lesser proportion, though not less than a majority, of such voting power, of any particular class as is required by the articles of incorporation. Notice of the meeting of the members shall be given to all members and stockholders whether or not entitled to vote.

(F) Upon the adoption of a resolution of dissolution, a certificate shall be filed with the secretary of state, on a form prescribed by the secretary of state, stating all of the following:

(1) The name of the association;

(2) A statement that a resolution of dissolution has been adopted, its manner of adoption, and, in the case of its adoption by the incorporators or directors, a statement of the basis for such adoption;

(3) The place in this state where the association's principal office is located;

(4) The names and addresses of the association's directors and officers, or if the resolution of dissolution is adopted by the incorporators, the names and addresses of the incorporators;

(5) The name and address of the association's statutory agent.

(G) Such certificate shall be signed as follows:

(1) When the resolution of dissolution is adopted by the incorporators, the certificate shall be signed by not less than a majority of the incorporators;

(2) When the resolution is adopted by the directors or by the members, the certificate shall be signed by any authorized officer. However, if no authorized officer executes and files such certificate within thirty days after the adoption of the resolution or upon any date specified in the resolution as the date upon which such certificate is to be filed or upon the expiration of any period specified in the resolution as the period within which such

certificate is to be filed, whichever is latest, the certificate of dissolution may be signed by any three members, or if there are less than three members, then by all of the members, and shall set forth a statement that the persons signing the certificate are members and are filing the certificate because of the failure of an authorized officer to do so.

(H) A certificate of dissolution, filed with the secretary of state, shall be accompanied by all of the following:

(1) An affidavit of one or more of the persons executing the certificate of dissolution or of any authorized officer of the association containing a statement of the counties, if any, in this state in which the association has personal property or a statement that the association is of a type required to pay personal property taxes to state authorities only;

(2) A receipt, certificate, or other evidence showing the payment of all franchise, sales, use, and highway use taxes accruing up to the date of such filing, or that such payment has been adequately guaranteed;

(3) A receipt, certificate, or other evidence showing the payment of all personal property taxes accruing up to the date of such filing;

(4) A receipt, certificate, or other evidence from the ~~bureau~~ director of ~~employment~~ job and family services showing that all contributions due from the association as an employer have been paid, or that such payment has been adequately guaranteed, or that the association is not subject to such contributions;

(5) A receipt, certificate, or other evidence from the bureau of workers' compensation showing that all premiums due from the association as an employer have been paid, or that such payment has been adequately guaranteed, or that the association is not subject to such premium payments;

(6) In lieu of the receipt, certificate, or other evidence described in division (H)(2), (3), (4), or (5) of this section, an affidavit of one or more persons executing the certificate of dissolution or of any authorized officer of the association containing a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled date of filing of the certificate of dissolution and was advised in writing of the acknowledgment by the association of the applicability of section 1729.25 of the Revised Code.

(I) Upon the filing of a certificate of dissolution and the accompanying documents required by division (H) of this section, the association shall be dissolved.

Sec. 1743.05. Any corporation organized for the purpose of providing a home for deaf and dumb persons may enter into a contract with the board of county commissioners of any county, or with the proper officers of any

municipal infirmary, for the care and maintenance in such home of any deaf and dumb person who is an inmate of the county home or of such municipal infirmary, or who is entitled to admission thereto. In every such case the county home or municipal infirmary, during the period the person remains in such home for deaf and dumb persons, shall pay to such corporation, annually, a sum equal to the per capita cost of maintaining inmates in the county home or municipal infirmary.

When any deaf and dumb person is maintained in a county home or municipal infirmary, and in the judgment of the county department of ~~human~~ job and family services should be removed to a home incorporated to provide a home for deaf and dumb persons, such department may order the removal of the person from the county home or municipal infirmary to such home. The transportation of the person to such home and ~~his~~ the person's maintenance shall be paid for by the board of county commissioners or the proper officers of the municipal infirmary.

Sec. 1751.01. As used in this chapter:

(A) "Basic health care services" means the following services when medically necessary:

(1) Physician's services, except when such services are supplemental under division (B) of this section;

(2) Inpatient hospital services;

(3) Outpatient medical services;

(4) Emergency health services;

(5) Urgent care services;

(6) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(7) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care.

"Basic health care services" does not include experimental procedures.

A health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid,

provided by the ~~Ohio~~ department of ~~human~~ job and family services under Chapter 5111. of the Revised Code, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(B) "Supplemental health care services" means any health care services other than basic health care services that a health insuring corporation may offer, alone or in combination with either basic health care services or other supplemental health care services, and includes:

(1) Services of facilities for intermediate or long-term care, or both;

(2) Dental care services;

(3) Vision care and optometric services including lenses and frames;

(4) Podiatric care or foot care services;

(5) Mental health services including psychological services;

(6) Short-term outpatient evaluative and crisis-intervention mental health services;

(7) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;

(8) Home health services;

(9) Prescription drug services;

(10) Nursing services;

(11) Services of a dietitian licensed under Chapter 4759. of the Revised Code;

(12) Physical therapy services;

(13) Chiropractic services;

(14) Any other category of services approved by the superintendent of insurance.

(C) "Specialty health care services" means one of the supplemental health care services listed in division (B)(1) to (13) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.

(D) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.

(E) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.

(F) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.

(G) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state.

(H) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

(I) "Enrollee" means any natural person who is entitled to receive health care benefits provided by a health insuring corporation.

(J) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan.

(K) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, mental retardation, intermediate care, or skilled nursing services.

(L) "Health care services" means basic, supplemental, and specialty health care services.

(M) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis.

(N) "Health insuring corporation" means a corporation, as defined in division (G) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan.

"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the Revised Code, an insurer licensed under Title XXXIX of the Revised Code if that insurer offers only open panel plans under which all providers and health care facilities participating receive their compensation directly from the insurer, a corporation formed by or on behalf of a political subdivision or a department, office, or institution of the state, or a public entity formed by or on behalf of a board of county commissioners, a county board of mental retardation and developmental disabilities, an alcohol and drug addiction

services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, as those terms are used in Chapters 340. and 5126. of the Revised Code. Except as provided by division (D) of section 1751.02 of the Revised Code, or as otherwise provided by law, no board, commission, agency, or other entity under the control of a political subdivision may accept insurance risk in providing for health care services. However, nothing in this division shall be construed as prohibiting such entities from purchasing the services of a health insuring corporation or a third-party administrator licensed under Chapter 3959. of the Revised Code.

(O) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

(P) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

(Q) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.

(R)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section 1751.11 of the Revised Code and a policy and certificate filing under section 3923.02 of the Revised Code.

(S) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor.

(T) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance

company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency.

(U) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility.

(V) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee.

(W) "Provider" means any natural person or partnership of natural persons who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services, or any professional association organized under Chapter 1785. of the Revised Code, provided that nothing in this chapter or other provisions of law shall be construed to preclude a health insuring corporation, health care practitioner, or organized health care group associated with a health insuring corporation from employing certified nurse practitioners, certified nurse anesthetists, clinical nurse specialists, certified nurse midwives, dietitians, physicians' assistants, dental assistants, dental hygienists, optometric technicians, or other allied health personnel who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services.

(X) "Provider sponsored organization" means a corporation, as defined in division (G) of this section, that is at least eighty per cent owned or controlled by one or more hospitals, as defined in section 3727.01 of the Revised Code, or one or more physicians licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code, or any combination of such physicians and hospitals. Such control is presumed to exist if at least eighty per cent of the voting rights or governance rights of a provider sponsored organization are directly or indirectly owned, controlled, or otherwise held by any combination of the physicians and hospitals described in this division.

(Y) "Solicitation document" means the written materials provided to prospective subscribers or enrollees, or both, and used for advertising and marketing to induce enrollment in the health care plans of a health insuring corporation.

(Z) "Subscriber" means a person who is responsible for making payments to a health insuring corporation for participation in a health care plan, or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health insuring corporation.

(AA) "Urgent care services" means those health care services that are appropriately provided for an unforeseen condition of a kind that usually requires medical attention without delay but that does not pose a threat to the life, limb, or permanent health of the injured or ill person, and may include such health care services provided out of the health insuring corporation's approved service area pursuant to indemnity payments or service agreements.

Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.

(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-hours-per-day, seven-days-per-week basis, as to how health care services may be obtained. The identification card or document shall also list at least one toll-free number that, during normal business hours, provides the subscriber with access to information on the coverage available under the subscriber's health care plan and information on the health care plan's internal and external review processes.

(C) No evidence of coverage, or amendment to the evidence of coverage, shall be delivered, issued for delivery, renewed, or used, until the form of the evidence of coverage or amendment has been filed by the health insuring corporation with the superintendent of insurance. If the superintendent does not disapprove the evidence of coverage or amendment within sixty days after it is filed it shall be deemed approved, unless the superintendent sooner gives approval for the evidence of coverage or amendment. With respect to an amendment to an approved evidence of coverage, the superintendent only may disapprove provisions amended or added to the evidence of coverage. If the superintendent determines within the sixty-day period that any evidence of coverage or amendment fails to meet the requirements of this section, the superintendent shall so notify the health insuring corporation and it shall be unlawful for the health insuring corporation to use such evidence of coverage or amendment. At any time,

the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw an approval, deemed or actual, of any evidence of coverage or amendment on any of the grounds stated in this section. Such disapproval shall be effected by a written order, which shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(D) No evidence of coverage or amendment shall be delivered, issued for delivery, renewed, or used:

(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;

(2) Unless it contains a clear, concise, and complete statement of the following:

(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;

(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments;

(c) An enrollee's personal financial obligation for noncovered services;

(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;

(e) The premium rate with respect to individual and conversion contracts, and relevant copayment provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.

(f) The method utilized by the health insuring corporation for resolving enrollee complaints;

(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.85 of the Revised Code.

(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:

(a) The enrollee's discharge from the hospital;

(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in utilization review as described in the evidence of

coverage.

(c) The enrollee's reaching the limit for contractual benefits;

(d) The effective date of any new coverage.

(4) Unless it contains a provision that states, in substance, that the health insuring corporation is not a member of any guaranty fund, and that in the event of the health insuring corporation's insolvency, an enrollee is protected only to the extent that the hold harmless provision required by section 1751.13 of the Revised Code applies to the health care services rendered;

(5) Unless it contains a provision that states, in substance, that in the event of the insolvency of the health insuring corporation, an enrollee may be financially responsible for health care services rendered by a provider or health care facility that is not under contract to the health insuring corporation, whether or not the health insuring corporation authorized the use of the provider or health care facility.

(E) Notwithstanding divisions (C) and (D) of this section, a health insuring corporation may use an evidence of coverage that provides for the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare contract, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the Ohio department of ~~human~~ job and family services under Chapter 5111. of the Revised Code, or an evidence of coverage that provides for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or an evidence of coverage that provides for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The evidence of coverage has been approved by the United States department of health and human services, the United States office of personnel management, the Ohio department of ~~human~~ job and family services, or the department of administrative services.

(2) The evidence of coverage is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the Ohio department of ~~human~~ job

and family services, or the department of administrative services.

Sec. 1751.12. (A)(1) No contractual periodic prepayment and no premium rate for nongroup and conversion policies for health care services, or any amendment to them, may be used by any health insuring corporation at any time until the contractual periodic prepayment and premium rate, or amendment, have been filed with the superintendent of insurance, and shall not be effective until the expiration of sixty days after their filing unless the superintendent sooner gives approval. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent shall disapprove the filing, if the superintendent determines within the sixty-day period that the contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees. The superintendent shall notify the health insuring corporation of the disapproval, and it shall thereafter be unlawful for the health insuring corporation to use the contractual periodic prepayment or premium rate, or amendment.

(2) No contractual periodic prepayment for group policies for health care services shall be used until the contractual periodic prepayment has been filed with the superintendent. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent may reject a filing made under division (A)(2) of this section at any time, with at least thirty days' written notice to a health insuring corporation, if the contractual periodic prepayment is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(3) At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw the approval given under division (A)(1) of this section, deemed or actual, of any contractual periodic prepayment or premium rate, or amendment, based on information that either of the following applies:

(a) The contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles.

(b) The contractual periodic prepayment or premium rate, or amendment, is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(4) Any disapproval under division (A)(1) of this section, any rejection of a filing made under division (A)(2) of this section, or any withdrawal of approval under division (A)(3) of this section, shall be effected by a written notice, which shall state the specific basis for the disapproval, rejection, or

withdrawal and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) Notwithstanding division (A) of this section, a health insuring corporation may use a contractual periodic prepayment or premium rate for policies used for the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk contract or medicare cost contract, or for policies used for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies used for the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the ~~Ohio~~ department of ~~human~~ job and family services under Chapter 5111. of the Revised Code, or for policies used for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or for policies used for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The contractual periodic prepayment or premium rate has been approved by the United States department of health and human services, the United States office of personnel management, the ~~Ohio~~ department of ~~human~~ job and family services, or the department of administrative services.

(2) The contractual periodic prepayment or premium rate is filed with the superintendent prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the ~~Ohio~~ department of ~~human~~ job and family services, or the department of administrative services.

(C) The administrative expense portion of all contractual periodic prepayment or premium rate filings submitted to the superintendent for review must reflect the actual cost of administering the product. The superintendent may require that the administrative expense portion of the filings be itemized and supported.

(D)(1) Copayments must be reasonable and must not be a barrier to the necessary utilization of services by enrollees.

(2) A health insuring corporation may not impose copayment charges on basic health care services that exceed thirty per cent of the total cost of providing any single covered health care service, except for physician office visits, emergency health services, and urgent care services. The total cost of providing a health care service is the cost to the health insuring corporation of providing the health care service to its enrollees as reduced by any

cable provider discount. An open panel plan may not impose copayments on out-of-network benefits that exceed fifty per cent of the total cost of providing any single covered health care service.

(3) To ensure that copayments are not a barrier to the utilization of basic health care services, a health insuring corporation may not impose, in any contract year, on any subscriber or enrollee, copayments that exceed two hundred per cent of the total annual premium rate to the subscriber or enrollees. This limitation of two hundred per cent does not include any reasonable copayments that are not a barrier to the necessary utilization of health care services by enrollees and that are imposed on physician office visits, emergency health services, urgent care services, supplemental health care services, or specialty health care services.

(E) A health insuring corporation shall not impose lifetime maximums on basic health care services. However, a health insuring corporation may establish a benefit limit for inpatient hospital services that are provided pursuant to a policy, contract, certificate, or agreement for supplemental health care services.

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, either directly or indirectly, enter into contracts for the provision of health care services with a sufficient number and types of providers and health care facilities to ensure that all covered health care services will be accessible to enrollees from a contracted provider or health care facility.

(b) A health insuring corporation shall not refuse to contract with a physician for the provision of health care services or refuse to recognize a physician as a specialist on the basis that the physician attended an educational program or a residency program approved or certified by the American ~~Osteopathic Association~~ osteopathic association. A health insuring corporation shall not refuse to contract with a health care facility for the provision of health care services on the basis that the health care facility is certified or accredited by the American ~~Osteopathic Association~~ osteopathic association or that the health care facility is an osteopathic hospital as defined in section 3702.51 of the Revised Code.

(c) Nothing in division (A)(1)(b) of this section shall be construed to require a health insuring corporation to make a benefit payment under a closed panel plan to a physician or health care facility with which the health insuring corporation does not have a contract, provided that none of the bases set forth in that division are used as a reason for failing to make a benefit payment.

(2) When a health insuring corporation is unable to provide a covered health care service from a contracted provider or health care facility, the

health insuring corporation must provide that health care service from a noncontracted provider or health care facility consistent with the terms of the enrollee's policy, contract, certificate, or agreement. The health insuring corporation shall either ensure that the health care service be provided at no greater cost to the enrollee than if the enrollee had obtained the health care service from a contracted provider or health care facility, or make other arrangements acceptable to the superintendent of insurance.

(3) Nothing in this section shall prohibit a health insuring corporation from entering into contracts with out-of-state providers or health care facilities that are licensed, certified, accredited, or otherwise authorized in that state.

(B)(1) A health insuring corporation shall, either directly or indirectly, enter into contracts with all providers and health care facilities through which health care services are provided to its enrollees.

(2) A health insuring corporation, upon written request, shall assist its contracted providers in finding stop-loss or reinsurance carriers.

(C) A health insuring corporation shall file an annual certificate with the superintendent certifying that all provider contracts and contracts with health care facilities through which health care services are being provided contain the following:

(1) A description of the method by which the provider or health care facility will be notified of the specific health care services for which the provider or health care facility will be responsible, including any limitations or conditions on such services;

(2) The specific hold harmless provision specifying protection of enrollees set forth as follows:

"[Provider/Health Care Facility] agrees that in no event, including but not limited to nonpayment by the health insuring corporation, insolvency of the health insuring corporation, or breach of this agreement, shall [Provider/Health Care Facility] bill, charge, collect a deposit from, seek remuneration or reimbursement from, or have any recourse against, a subscriber, enrollee, person to whom health care services have been provided, or person acting on behalf of the covered enrollee, for health care services provided pursuant to this agreement. This does not prohibit [Provider/Health Care Facility] from collecting co-insurance or copayments as specifically provided in the evidence of coverage, or fees for uncovered health care services delivered on a fee-for-service basis to persons referenced above, nor from any recourse against the health insuring corporation or its successor."

(3) Provisions requiring the provider or health care facility to continue

to provide covered health care services to enrollees in the event of the health insuring corporation's insolvency or discontinuance of operations. The provisions shall require the provider or health care facility to continue to provide covered health care services to enrollees as needed to complete any medically necessary procedures commenced but unfinished at the time of the health insuring corporation's insolvency or discontinuance of operations. The completion of a medically necessary procedure shall include the rendering of all covered health care services that constitute medically necessary follow-up care for that procedure. If an enrollee is receiving necessary inpatient care at a hospital, the provisions may limit the required provision of covered health care services relating to that inpatient care in accordance with division (D)(3) of section 1751.11 of the Revised Code, and may also limit such required provision of covered health care services to the period ending thirty days after the health insuring corporation's insolvency or discontinuance of operations.

The provisions required by division (C)(3) of this section shall not require any provider or health care facility to continue to provide any covered health care service after the occurrence of any of the following:

(a) The end of the thirty-day period following the entry of a liquidation order under Chapter 3903. of the Revised Code;

(b) The end of the enrollee's period of coverage for a contractual prepayment or premium;

(c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee;

(d) The enrollee or the enrollee's employer terminates coverage under the contract;

(e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code.

(4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs;

(5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and

appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or complaints of enrollees, and requiring the provider or health care facility to comply with applicable state and federal laws related to the confidentiality of medical or health records.

(6) A provision that states that contractual rights and responsibilities may not be assigned or delegated by the provider or health care facility without the prior written consent of the health insuring corporation;

(7) A provision requiring the provider or health care facility to maintain adequate professional liability and malpractice insurance. The provision shall also require the provider or health care facility to notify the health insuring corporation not more than ten days after the provider's or health care facility's receipt of notice of any reduction or cancellation of such coverage.

(8) A provision requiring the provider or health care facility to observe, protect, and promote the rights of enrollees as patients;

(9) A provision requiring the provider or health care facility to provide health care services without discrimination on the basis of a patient's participation in the health care plan, age, sex, ethnicity, religion, sexual preference, health status, or disability, and without regard to the source of payments made for health care services rendered to a patient. This requirement shall not apply to circumstances when the provider or health care facility appropriately does not render services due to limitations arising from the provider's or health care facility's lack of training, experience, or skill, or due to licensing restrictions.

(10) A provision containing the specifics of any obligation on the primary care provider to provide, or to arrange for the provision of, covered health care services twenty-four hours per day, seven days per week;

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract;

(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation;

(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions.

This division does not apply to the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the ~~Ohio~~ department of ~~human~~ job and family services under Chapter 5111. of the Revised Code, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(D)(1) No health insuring corporation contract with a provider or health care facility shall contain any of the following:

(a) A provision that directly or indirectly offers an inducement to the provider or health care facility to reduce or limit medically necessary health care services to a covered enrollee;

(b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the health insuring corporation's decision to deny or limit benefits to the enrollee;

(c) A provision that limits or otherwise restricts the provider's or health care facility's ethical and legal responsibility to fully advise enrollees about their medical condition and about medically appropriate treatment options;

(d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services;

(e) A provision that penalizes a provider or health care facility for providing information or testimony to a legislative or regulatory body or agency. This shall not be construed to prohibit a health insuring corporation from penalizing a provider or health care facility that provides information or testimony that is libelous or slanderous or that discloses trade secrets which the provider or health care facility has no privilege or permission to disclose.

(2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following:

(a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service;

(b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols.

(E) Any contract between a health insuring corporation and an intermediary organization shall clearly specify that the health insuring corporation must approve or disapprove the participation of any provider or health care facility with which the intermediary organization contracts.

(F) If an intermediary organization that is not a health delivery network contracting solely with self-insured employers subcontracts with a provider or health care facility, the subcontract with the provider or health care facility shall do all of the following:

(1) Contain the provisions required by divisions (C) and (G) of this section, as made applicable to an intermediary organization, without the inclusion of inducements or penalties described in division (D) of this section;

(2) Acknowledge that the health insuring corporation is a third-party beneficiary to the agreement;

(3) Acknowledge the health insuring corporation's role in approving the participation of the provider or health care facility, pursuant to division (E) of this section.

(G) Any provider contract or contract with a health care facility shall clearly specify the health insuring corporation's statutory responsibility to monitor and oversee the offering of covered health care services to its enrollees.

(H)(1) A health insuring corporation shall maintain its provider contracts and its contracts with health care facilities at one or more of its places of business in this state, and shall provide copies of these contracts to facilitate regulatory review upon written notice by the superintendent of insurance.

(2) Any contract with an intermediary organization that accepts compensation shall include provisions requiring the intermediary organization to provide the superintendent with regulatory access to all books, records, financial information, and documents related to the provision of health care services to subscribers and enrollees under the contract. The contract shall require the intermediary organization to maintain such books, records, financial information, and documents at its principal place of business in this state and to preserve them for at least three years in a manner that facilitates regulatory review.

(I)(1) A health insuring corporation shall notify its affected enrollees of the termination of a contract for the provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract

with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician within the previous twelve months or if the subscriber or dependent has selected the physician as the subscriber's or dependent's primary care physician within the previous twelve months.

(b) Notice shall be given to subscribers of the termination of a contract with a hospital if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from that hospital within the previous twelve months.

(2) The health insuring corporation shall pay, in accordance with the terms of the contract, for all covered health care services rendered to an enrollee by a primary care physician or hospital between the date of the termination of the contract and five days after the notification of the contract termination is mailed to a subscriber at the subscriber's last known address.

(J) Divisions (A) and (B) of this section do not apply to any health insuring corporation that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1740. of the Revised Code.

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1751.20. (A) No health insuring corporation, or agent, employee, or representative of a health insuring corporation, shall use any advertisement or solicitation document, or shall engage in any activity, that is unfair, untrue, misleading, or deceptive.

(B) No health insuring corporation shall use a name that is deceptively similar to the name or description of any insurance or surety corporation doing business in this state.

(C) All solicitation documents, advertisements, evidences of coverage, and enrollee identification cards used by a health insuring corporation shall contain the health insuring corporation's name. The use of a trade name, an insurance group designation, the name of a parent company, the name of a division of an affiliated insurance company, a service mark, a slogan, a symbol, or other device, without the name of the health insuring corporation as stated in its articles of incorporation, shall not satisfy this requirement if the usage would have the capacity and tendency to mislead or deceive persons as to the true identity of the health insuring corporation.

(D) No solicitation document or advertisement used by a health insuring corporation shall contain any words, symbols, or physical materials that are so similar in content, phraseology, shape, color, or other characteristic to those used by an agency of the federal government or this state, that

prospective enrollees may be led to believe that the solicitation document or advertisement is connected with an agency of the federal government or this state.

(E) A health insuring corporation that provides basic health care services may use the phrase "health maintenance organization" or the abbreviation "HMO" in its marketing name, advertising, solicitation documents, or marketing literature, or in reference to the phrase "doing business as" or the abbreviation "DBA."

(F) This section does not apply to the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the Ohio department of ~~human~~ job and family services under Chapter 5111. of the Revised Code, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

Sec. 1751.31. (A) Any changes in a health insuring corporation's solicitation document shall be filed with the superintendent of insurance. The superintendent, within sixty days of filing, may disapprove any solicitation document or amendment to it on any of the grounds stated in this section. Such disapproval shall be effected by written notice to the health insuring corporation. The notice shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) The solicitation document shall contain all information necessary to enable a consumer to make an informed choice as to whether or not to enroll in the health insuring corporation. The information shall include a specific description of the health care services to be available and the approximate number and type of full-time equivalent medical practitioners. The information shall be presented in the solicitation document in a manner that is clear, concise, and intelligible to prospective applicants in the proposed service area.

(C) Every potential applicant whose subscription to a health care plan is solicited shall receive, at or before the time of solicitation, a solicitation document approved by the superintendent.

(D) Notwithstanding division (A) of this section, a health insuring

corporation may use a solicitation document that the corporation uses in connection with policies for beneficiaries of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk contract or medicare cost contract, or for policies for beneficiaries of the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies for beneficiaries of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the ~~Ohio~~ department of ~~human~~ job and family services under Chapter 5111. of the Revised Code, or for policies for beneficiaries of any other federal health care program regulated by a federal regulatory body, or for policies for beneficiaries of contracts covering officers or employees of the state entered into by the department of administrative services, if both of the following apply:

(1) The solicitation document has been approved by the United States department of health and human services, the United States office of personnel management, the ~~Ohio~~ department of ~~human~~ job and family services, or the department of administrative services.

(2) The solicitation document is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the ~~Ohio~~ department of ~~human~~ job and family services, or the department of administrative services.

(E) No health insuring corporation, or its agents or representatives, shall use monetary or other valuable consideration, engage in misleading or deceptive practices, or make untrue, misleading, or deceptive representations to induce enrollment. Nothing in this division shall prohibit incentive forms of remuneration such as commission sales programs for the health insuring corporation's employees and agents.

(F) Any person obligated for any part of a premium rate in connection with an enrollment agreement, in addition to any right otherwise available to revoke an offer, may cancel such agreement within seventy-two hours after having signed the agreement or offer to enroll. Cancellation occurs when written notice of the cancellation is given to the health insuring corporation or its agents or other representatives. A notice of cancellation mailed to the health insuring corporation shall be considered to have been filed on its postmark date.

(G) Nothing in this section shall prohibit healthy lifestyle programs.

Sec. 1925.04. (A) An action is commenced in the small claims division when the plaintiff, or the plaintiff's attorney, states the amount and nature of

the plaintiff's claim to the court as provided in this section. The commencement constitutes a waiver of any right of the plaintiff to trial by jury upon such action. At the time of the commencement of an action, the plaintiff, or the plaintiff's attorney, shall pay both of the following:

(1) A filing fee as determined by the court;

(2) The sum required by division (C) of section 1901.26 or division (C) of section 1907.24 of the Revised Code.

(B) The plaintiff, or the plaintiff's attorney, shall state to the administrative assistant or other official designated by the court, the plaintiff's and the defendant's place of residence, the military status of the defendant, and the nature and amount of the plaintiff's claim. The claim shall be reduced to writing in concise, nontechnical form. Such writing shall be signed by the plaintiff, or the plaintiff's attorney, under oath.

A memorandum of the time and place set for trial shall be given to the person signing the writing. The time set for such trial shall be not less than fifteen or more than forty days after the commencement of the action.

If taxes are sought to be recovered in the action, an authorized employee of a political subdivision or an authorized officer or employee of the state, as defined in section 1925.02 of the Revised Code, may commence the action. If an action is brought on behalf of a county department of ~~human~~ job and family services, a representative of the prosecuting attorney of the county, designated under section 1925.18 of the Revised Code, may commence the action.

Sec. 1925.13. (A) The court, in its discretion, may order that the judgment, interest, and costs be paid at a certain date or by specified weekly installments, and, during compliance with the order, the court may stay the issue of execution and other proceedings in aid of execution. The court may modify or vacate the stay at any time.

Except as otherwise provided in this section, a judgment creditor may commence any proceedings to obtain satisfaction of the judgment, including execution and garnishment proceedings, that are permitted to obtain satisfaction of a judgment rendered in an ordinary civil action. In the case of an action commenced by a county department of ~~human~~ job and family services employee designated under section 1925.18 of the Revised Code to represent the prosecuting attorney of the county in commencement of the action, the county department of ~~human~~ job and family services is the judgment creditor.

If an authorized employee of a political subdivision or an authorized officer or employee of the state, as defined in section 1925.02 of the Revised Code, prevails in an action to recover taxes, the authorized person may use

any means provided by law to obtain satisfaction of the judgment, including the provisions of division (B) of this section.

If a party is not represented by counsel, the court, upon payment of court costs, shall explain to the parties and assist the parties in the preparation and filing of, and supply the parties with any necessary forms for, proceedings in aid of execution to collect and enforce judgments.

(B) If, within thirty days after judgment, the judgment is not satisfied and the parties have not otherwise agreed, the court, upon the request of the judgment creditor, shall order the judgment debtor to file, on a form prepared by the court, a list of the judgment debtor's assets, liabilities, and personal earnings. The form shall contain a notice that failure to complete the form and return it to the court within one week after receipt may result in a citation for contempt of court. Any party who, with notice of the possible contempt citation, willfully fails to comply with the order of the court may be cited for contempt of court as provided in Chapter 2705. of the Revised Code.

Sec. 1925.18. (A)(1) Subject to division (A)(2) of this section, a prosecuting attorney of a county may designate any employee of a county department of ~~human~~ job and family services to act as ~~his~~ the prosecuting attorney's representative in the commencement and prosecution or defense of any action in the small claims division of a municipal or county court on behalf of the department.

(2)(a) If the prosecuting attorney designates as ~~his~~ the prosecuting attorney's representative an employee of the department who is not an attorney, the employee may file and present the claim or defense of the department in the action if the employee does not, in the absence of the representation of the department by an attorney, engage in cross-examination, argument, or other acts of advocacy.

(b) If the prosecuting attorney designates as ~~his~~ the prosecuting attorney's representative an employee of the department who is an attorney, the employee may file and prosecute or defend fully the claim or defense of the department in the action.

(B) Division (A) of this section does not preclude the appearance of the prosecuting attorney on behalf of a county department of ~~human~~ job and family services as provided in section 309.09 of the Revised Code.

Sec. 2101.11. (A)(1) The probate judge shall have the care and custody of the files, papers, books, and records belonging to the probate court. The probate judge is authorized to perform the duties of clerk of the judge's court. The probate judge may appoint deputy clerks, stenographers, a bailiff, and any other necessary employees, each of whom shall take an oath of

office before entering upon the duties of the employee's appointment and, when so qualified, may perform the duties appertaining to the office of clerk of the court.

(2)(a) The probate judge shall provide for one or more probate court investigators to perform the duties that are established for a probate court investigator by the Revised Code or the probate judge. The probate judge may provide for an investigator in any of the following manners, as the court determines is appropriate:

(i) By appointing a person as a full-time or part-time employee of the probate court to serve as investigator, or by designating a current full-time or part-time employee of the probate court to serve as investigator;

(ii) By contracting with a person to serve and be compensated as investigator only when needed by the probate court, as determined by the court, and by designating that person as a probate court investigator during the times when the person is performing the duties of an investigator for the court;

(iii) By entering into an agreement with another department or agency of the county, including, but not limited to, the sheriff's department or the county department of ~~human~~ job and family services, pursuant to which an employee of the other department or agency will serve and perform the duties of investigator for the court, upon request of the probate judge, and designating that employee as a probate court investigator during the times when the person is performing the duties of an investigator for the court.

(b) Each person appointed or otherwise designated as a probate court investigator shall take an oath of office before entering upon the duties of the person's appointment. When so qualified, an investigator may perform the duties that are established for a probate court investigator by the Revised Code or the probate judge.

(c) Except as otherwise provided in this division, a probate court investigator shall hold at least a bachelor's degree in social work, psychology, education, special education, or a related human services field. A probate judge may waive the education requirement of this division for a person the judge appoints or otherwise designates as a probate court investigator if the judge determines that the person has experience in ~~human~~ family services work that is equivalent to the required education.

(d) Within one year after appointment or designation, a probate court investigator shall attend an orientation course of at least six hours, and each calendar year after the calendar year of appointment or designation, a probate court investigator shall satisfactorily complete at least six hours of continuing education.

(e) For purposes of divisions (A)(4), (B), and (C) of this section, a person designated as a probate court investigator under division (A)(2)(a)(ii) or (iii) of this section shall be considered an appointee of the probate court at any time that the person is performing the duties established under the Revised Code or by the probate judge for a probate court investigator.

(3)(a) The probate judge may provide for one or more persons to perform the duties of an assessor under sections 3107.031, 3107.082, 3107.09, and 3107.12 of the Revised Code or may enter into agreements with public children services agencies, private child placing agencies, or private noncustodial agencies under which the agency provides for one or more persons to perform the duties of an assessor. A probate judge who provides for an assessor shall do so in either of the following manners, as the judge considers appropriate:

(i) By appointing a person as a full-time or part-time employee of the probate court to serve as assessor, or by designating a current full-time or part-time employee of the probate court to serve as assessor;

(ii) By contracting with a person to serve and be compensated as assessor only when needed by the probate court, as determined by the court, and by designating that person as an assessor during the times when the person is performing the duties of an assessor for the court.

(b) Each person appointed or designated as a probate court assessor shall take an oath of office before entering on the duties of the person's appointment.

(c) A probate court assessor must meet the qualifications for an assessor established by section 3107.012 of the Revised Code.

(d) A probate court assessor shall perform additional duties, including duties of an investigator under division (A)(2) of this section, when the probate judge assigns additional duties to the assessor.

(e) For purposes of divisions (A)(4), (B), and (C) of this section, a person designated as a probate court assessor shall be considered an appointee of the probate court at any time that the person is performing assessor duties.

(4) Each appointee of the probate judge may administer oaths in all cases when necessary, in the discharge of official duties.

(B)(1)(a) Subject to the appropriation made by the board of county commissioners pursuant to this division, each appointee of a probate judge under division (A) of this section shall receive such compensation and expenses as the judge determines and shall serve during the pleasure of the judge. The compensation of each appointee shall be paid in semimonthly installments by the county treasurer from the county treasury, upon the

warrants of the county auditor, certified to by the judge.

(b) Except as otherwise provided in the Revised Code, the total compensation paid to all appointees of the probate judge in any calendar year shall not exceed the total fees earned by the probate court during the preceding calendar year, unless the board of county commissioners approves otherwise.

(2) The probate judge annually shall submit a written request for an appropriation to the board of county commissioners that shall set forth estimated administrative expenses of the court, including the salaries of appointees as determined by the judge and any other costs, fees, and expenses, including, but not limited to, those enumerated in section 5123.96 of the Revised Code, that the judge considers reasonably necessary for the operation of the court. The board shall conduct a public hearing with respect to the written request submitted by the judge and shall appropriate such sum of money each year as it determines, after conducting the public hearing and considering the written request of the judge, is reasonably necessary to meet all the administrative expenses of the court, including the salaries of appointees as determined by the judge and any other costs, fees, and expenses, including, but not limited to, the costs, fees, and expenses enumerated in section 5123.96 of the Revised Code.

If the judge considers the appropriation made by the board pursuant to this division insufficient to meet all the administrative expenses of the court, the judge shall commence an action under Chapter 2731. of the Revised Code in the court of appeals for the judicial district for a determination of the duty of the board of county commissioners to appropriate the amount of money in dispute. The court of appeals shall give priority to the action filed by the probate judge over all cases pending on its docket. The burden shall be on the probate judge to prove that the appropriation requested is reasonably necessary to meet all administrative expenses of the court. If, prior to the filing of an action under Chapter 2731. of the Revised Code or during the pendency of the action, the judge exercises the judge's contempt power in order to obtain the sum of money in dispute, the judge shall not order the imprisonment of any member of the board of county commissioners notwithstanding sections 2705.02 to 2705.06 of the Revised Code.

(C) The probate judge may require any of the judge's appointees to give bond in the sum of not less than one thousand dollars, conditioned for the honest and faithful performance of the appointee's duties. The sureties on the bonds shall be approved in the manner provided in section 2101.03 of the Revised Code.

The judge is personally liable for the default, malfeasance, or nonfeasance of any such appointee, but, if a bond is required of the appointee, the liability of the judge is limited to the amount by which the loss resulting from the default, malfeasance, or nonfeasance exceeds the amount of the bond.

All bonds required to be given in the probate court, on being accepted and approved by the probate judge, shall be filed in the judge's office.

Sec. 2101.16. (A) The fees enumerated in this division shall be charged and collected, if possible, by the probate judge and shall be in full for all services rendered in the respective proceedings:

(1)	Account, in addition to advertising charges.....	$12.00
	Waivers and proof of notice of hearing on account, per page, minimum one dollar.....	$ 1.00
(2)	Account of distribution, in addition to advertising charges.....	$ 7.00
(3)	Adoption of child, petition for.....	$50.00
(4)	Alter or cancel contract for sale or purchase of real estate, petition to.....	$20.00
(5)	Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section.....	$ 5.00
(6)	Appropriation suit, per day, hearing in.....	$20.00
(7)	Birth, application for registration of.....	$ 7.00
(8)	Birth record, application to correct.....	$ 5.00
(9)	Bond, application for new or additional.....	$ 5.00
(10)	Bond, application for release of surety or reduction of.....	$ 5.00
(11)	Bond, receipt for securities deposited in lieu of.....	$ 5.00
(12)	Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar.....	$ 1.00

(13)	Citation and issuing citation, application for.....	$ 5.00
(14)	Change of name, petition for.....	$20.00
(15)	Claim, application of administrator or executor for allowance of administrator's or executor's own.....	$10.00
(16)	Claim, application to compromise or settle.....	$10.00
(17)	Claim, authority to present.....	$10.00
(18)	Commissioner, appointment of.....	$ 5.00
(19)	Compensation for extraordinary services and attorney's fees for fiduciary, application for.....	$ 5.00
(20)	Competency, application to procure adjudication of.....	$20.00
(21)	Complete contract, application to.....	$10.00
(22)	Concealment of assets, citation for.....	$10.00
(23)	Construction of will, petition for.....	$20.00
(24)	Continue decedent's business, application to.....	$10.00
	Monthly reports of operation.....	$ 5.00
(25)	Declaratory judgment, petition for.....	$20.00
(26)	Deposit of will.....	$ 5.00
(27)	Designation of heir.....	$20.00
(28)	Distribution in kind, application, assent, and order for.....	$ 5.00
(29)	Distribution under section 2109.36 of the Revised Code, application for an order of.....	$ 7.00
(30)	Docketing and indexing proceedings, including the filing	$15.00

	and noting of all necessary documents, maximum fee, fifteen dollars.....	
(31)	Exceptions to any proceeding named in this section, contest of appointment or.....	$10.00
(32)	Election of surviving partner to purchase assets of partnership, proceedings relating to.....	$10.00
(33)	Election of surviving spouse under will.....	$ 5.00
(34)	Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of.....	$35.00
(35)	Foreign will, application to record.....	$10.00
	Record of foreign will, additional, per page.....	$ 1.00
(36)	Forms when supplied by the probate court, not to exceed.....	$10.00
(37)	Heirship, petition to determine.....	$20.00
(38)	Injunction proceedings.....	$20.00
(39)	Improve real estate, petition to.....	$20.00
(40)	Inventory with appraisement.....	$10.00
(41)	Inventory without appraisement.....	$ 7.00
(42)	Investment or expenditure of funds, application for.....	$10.00
(43)	Invest in real estate, application to.....	$10.00
(44)	Lease for oil, gas, coal, or other mineral, petition to.....	$20.00
(45)	Lease or lease and improve real estate, petition to.....	$20.00
(46)	Marriage	$10.00

	.....	
	Certified abstract of each marriage.....	$ 2.00
(47)	Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of.....	$10.00
(48)	Mortgage or mortgage and repair or improve real estate, petition to.....	$20.00
(49)	Newly discovered assets, report of.....	$ 7.00
(50)	Nonresident executor or administrator to bar creditors' claims, proceedings by.....	$20.00
(51)	Power of attorney or revocation of power, bonding company.....	$10.00
(52)	Presumption of death, petition to establish.....	$20.00
(53)	Probating will.....	$15.00
	Proof of notice to beneficiaries.....	$ 5.00
(54)	Purchase personal property, application of surviving spouse to.....	$10.00
(55)	Purchase real estate at appraised value, petition of surviving spouse to.....	$20.00
(56)	Receipts in addition to advertising charges, application and order to record.....	$ 5.00
	Record of those receipts, additional, per page.....	$ 1.00
(57)	Record in excess of fifteen hundred words in any proceeding in the probate court, per page.....	$ 1.00
(58)	Release of estate by mortgagee or other lienholder.....	$ 5.00
(59)	Relieving estate from administration.....	$60.00

(60)	Removal of fiduciary, application for.....	$10.00
(61)	Requalification of executor or administrator.....	$10.00
(62)	Resignation of fiduciary.....	$ 5.00
(63)	Sale bill, public sale of personal property.....	$10.00
(64)	Sale of personal property and report, application for.....	$10.00
(65)	Sale of real estate, petition for.....	$25.00
(66)	Terminate guardianship, petition to.....	$10.00
(67)	Transfer of real estate, application, entry, and certificate for.....	$ 7.00
(68)	Unclaimed money, application to invest.....	$ 7.00
(69)	Vacate approval of account or order of distribution, motion to.....	$10.00
(70)	Writ of execution.....	$ 5.00
(71)	Writ of possession.....	$ 5.00
(72)	Wrongful death, application and settlement of claim for.....	$20.00
(73)	Year's allowance, petition to review.....	$ 7.00
(74)	Guardian's report, filing and review of.....	$ 5.00

(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may

waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.

(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of the sixty-dollar fee collected pursuant to division (A)(59) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to section 2111.51 of the Revised Code.

(D) The fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the probate court or by order of the probate judge shall be the same as provided for like services in the court of common pleas.

(E) The probate court, by rule, may require an advance deposit for costs, not to exceed one hundred twenty-five dollars, at the time application is made for an appointment as executor or administrator or at the time a will is presented for probate.

(F) The probate court, by rule, shall establish a reasonable fee, not to exceed fifty dollars, for the filing of a petition for the release of information regarding an adopted person's name by birth and the identity of the adopted person's biological parents and biological siblings pursuant to section 3107.41 of the Revised Code, all proceedings relative to the petition, the entry of an order relative to the petition, and all services required to be performed in connection with the petition. The probate court may use a reasonable portion of a fee charged under authority of this division to reimburse any agency, as defined in section 3107.39 of the Revised Code, for any services it renders in performing a task described in section 3107.41 of the Revised Code relative to or in connection with the petition for which the fee was charged.

(G) Thirty dollars of the fifty-dollar fee collected pursuant to division (A)(3) of this section shall be deposited into the "putative father registry fund," which is hereby created in the state treasury. The department of ~~human~~ job and family services shall use the money in the fund to fund the department's costs of performing its duties related to the putative father registry established under section 3107.062 of the Revised Code.

Sec. 2113.06. Administration of the estate of an intestate shall be

granted to persons mentioned in this section, in the following order:

(A) To the surviving spouse of the deceased, if resident of the state;

(B) To one of the next of kin of the deceased, resident of the state.

If the persons entitled to administer the estate fail to take or renounce administration voluntarily, they shall be cited by the probate court for that purpose.

If there are no persons entitled to administration, or if they are for any reason unsuitable for the discharge of the trust, or if without sufficient cause they neglect to apply within a reasonable time for the administration of the estate, their right to priority shall be lost, and the court shall commit the administration to some suitable person who is a resident of the state, or to the attorney general or the attorney general's designee, if the department of ~~human~~ job and family services is seeking to recover medical assistance from the deceased pursuant to section 5111.11 or 5111.111 of the Revised Code. Such person may be a creditor of the estate.

This section applies to the appointment of an administrator de bonis non.

Sec. 2151.152. The juvenile judge may enter into an agreement with the department of ~~human~~ job and family services pursuant to section 5101.11 of the Revised Code for the purpose of reimbursing the court for foster care maintenance costs and associated administrative and training costs incurred on behalf of a child in the temporary or permanent custody of the court and eligible for payments under Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980). The agreement shall govern the responsibilities and duties the court shall perform in providing services to the child.

Sec. 2151.232. If an acknowledgment has been filed and entered into the birth registry pursuant to section 5101.314 of the Revised Code but has not yet become final, either parent who signed the acknowledgment may bring an action in the juvenile court under this section requesting that the court issue an order requiring a parent of the child to pay an amount for the support of the child in accordance with sections 3113.21 to 3113.219 of the Revised Code.

The parties to an action under this section may raise the issue of the existence or nonexistence of a parent-child relationship. If an action is commenced pursuant to this section and the issue of the existence or nonexistence of a parent-child relationship is raised, the court shall treat the action as an action commenced pursuant to sections 3111.01 to 3111.19 of the Revised Code. If the issue is raised, the court shall promptly notify the division of child support in the department of ~~human~~ job and family services

that it is conducting proceedings in compliance with sections 3111.01 to 3111.19 of the Revised Code. On receipt of the notice by the division, the acknowledgment of paternity signed by the parties and filed pursuant to section 5101.314 of the Revised Code shall be considered rescinded.

If the parties do not raise the issue of the existence or nonexistence of a parent-child relationship in the action and an order is issued pursuant to this section prior to the date the acknowledgment filed and entered on the birth registry under section 5101.314 of the Revised Code becomes final, the acknowledgment shall be considered final as of the date of the issuance of the order. An order issued pursuant to this section shall not affect an acknowledgment that becomes final pursuant to section 5101.314 of the Revised Code prior to the issuance of the order.

Sec. 2151.281. (A) The court shall appoint a guardian ad litem to protect the interest of a child in any proceeding concerning an alleged or adjudicated delinquent child or unruly child when either of the following applies:

(1) The child has no parent, guardian, or legal custodian.

(2) The court finds that there is a conflict of interest between the child and the child's parent, guardian, or legal custodian.

(B)(1) The court shall appoint a guardian ad litem to protect the interest of a child in any proceeding concerning an alleged abused or neglected child and in any proceeding held pursuant to section 2151.414 of the Revised Code. The guardian ad litem so appointed shall not be the attorney responsible for presenting the evidence alleging that the child is an abused or neglected child and shall not be an employee of any party in the proceeding.

(2) The guardian ad litem appointed for an alleged or adjudicated abused or neglected child may bring a civil action against any person, who is required by division (A)(1) of section 2151.421 of the Revised Code to file a report of known or suspected child abuse or child neglect, if that person knows or suspects that the child for whom the guardian ad litem is appointed is the subject of child abuse or child neglect and does not file the required report and if the child suffers any injury or harm as a result of the known or suspected child abuse or child neglect or suffers additional injury or harm after the failure to file the report.

(C) In any proceeding concerning an alleged or adjudicated delinquent, unruly, abused, neglected, or dependent child in which the parent appears to be mentally incompetent or is under eighteen years of age, the court shall appoint a guardian ad litem to protect the interest of that parent.

(D) The court shall require the guardian ad litem to faithfully discharge

the guardian ad litem's duties and, upon the guardian ad litem's failure to faithfully discharge the guardian ad litem's duties, shall discharge the guardian ad litem and appoint another guardian ad litem. The court may fix the compensation for the service of the guardian ad litem, which compensation shall be paid from the treasury of the county.

(E) A parent who is eighteen years of age or older and not mentally incompetent shall be deemed sui juris for the purpose of any proceeding relative to a child of the parent who is alleged or adjudicated to be an abused, neglected, or dependent child.

(F) In any case in which a parent of a child alleged or adjudicated to be an abused, neglected, or dependent child is under eighteen years of age, the parents of that parent shall be summoned to appear at any hearing respecting the child, who is alleged or adjudicated to be an abused, neglected, or dependent child.

(G) In any case involving an alleged or adjudicated abused or neglected child or an agreement for the voluntary surrender of temporary or permanent custody of a child that is made in accordance with section 5103.15 of the Revised Code, the court shall appoint the guardian ad litem in each case as soon as possible after the complaint is filed, the request for an extension of the temporary custody agreement is filed with the court, or the request for court approval of the permanent custody agreement is filed. In any case involving an alleged dependent child in which the parent of the child appears to be mentally incompetent or is under eighteen years of age, there is a conflict of interest between the child and the child's parents, guardian, or custodian, or the court believes that the parent of the child is not capable of representing the best interest of the child, the court shall appoint a guardian ad litem for the child. The guardian ad litem or the guardian ad litem's replacement shall continue to serve until any of the following occur:

(1) The complaint is dismissed or the request for an extension of a temporary custody agreement or for court approval of the permanent custody agreement is withdrawn or denied;

(2) All dispositional orders relative to the child have terminated;

(3) The legal custody of the child is granted to a relative of the child, or to another person;

(4) The child is placed in an adoptive home or, at the court's discretion, a final decree of adoption is issued with respect to the child;

(5) The child reaches the age of eighteen if the child is not mentally retarded, developmentally disabled, or physically impaired or the child reaches the age of twenty-one if the child is mentally retarded, developmentally disabled, or physically impaired;

(6) The guardian ad litem resigns or is removed by the court and a replacement is appointed by the court.

If a guardian ad litem ceases to serve a child pursuant to division (G)(4) of this section and the petition for adoption with respect to the child is denied or withdrawn prior to the issuance of a final decree of adoption or prior to the date an interlocutory order of adoption becomes final, the juvenile court shall reappoint a guardian ad litem for that child. The public children services agency or private child placing agency with permanent custody of the child shall notify the juvenile court if the petition for adoption is denied or withdrawn.

(H) If the guardian ad litem for an alleged or adjudicated abused, neglected, or dependent child is an attorney admitted to the practice of law in this state, the guardian ad litem also may serve as counsel to the ward. If a person is serving as guardian ad litem and counsel for a child and either that person or the court finds that a conflict may exist between the person's roles as guardian ad litem and as counsel, the court shall relieve the person of duties as guardian ad litem and appoint someone else as guardian ad litem for the child. If the court appoints a person who is not an attorney admitted to the practice of law in this state to be a guardian ad litem, the court also may appoint an attorney admitted to the practice of law in this state to serve as counsel for the guardian ad litem.

(I) The guardian ad litem for an alleged or adjudicated abused, neglected, or dependent child shall perform whatever functions are necessary to protect the best interest of the child, including, but not limited to, investigation, mediation, monitoring court proceedings, and monitoring the services provided the child by the public children services agency or private child placing agency that has temporary or permanent custody of the child, and shall file any motions and other court papers that are in the best interest of the child.

The guardian ad litem shall be given notice of all hearings, administrative reviews, and other proceedings in the same manner as notice is given to parties to the action.

(J)(1) When the court appoints a guardian ad litem pursuant to this section, it shall appoint a qualified volunteer whenever one is available and the appointment is appropriate.

(2) Upon request, the department of ~~human~~ job and family services shall provide for the training of volunteer guardians ad litem.

Sec. 2151.353. (A) If a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition:

(1) Place the child in protective supervision;

(2) Commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing within or outside the state, or a probation officer for placement in a certified family foster home or in any other home approved by the court;

(3) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child;

(4) Commit the child to the permanent custody of a public children services agency or private child placing agency, if the court determines in accordance with division (E) of section 2151.414 of the Revised Code that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines in accordance with division (D) of section 2151.414 of the Revised Code that the permanent commitment is in the best interest of the child. If the court grants permanent custody under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding.

(5) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child and that one of the following exists:

(a) The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care.

(b) The parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance with division (D) of section 2151.414 of the Revised Code, and the child retains a significant and positive relationship with a parent or relative.

(c) The child is sixteen years of age or older, has been counseled on the permanent placement options available to the child, is unwilling to accept or unable to adapt to a permanent placement, and is in an agency program preparing the child for independent living.

(6) Order the removal from the child's home until further order of the court of the person who committed abuse as described in section 2151.031

of the Revised Code against the child, who caused or allowed the child to suffer neglect as described in section 2151.03 of the Revised Code, or who is the parent, guardian, or custodian of a child who is adjudicated a dependent child and order any person not to have contact with the child or the child's siblings.

(B) No order for permanent custody or temporary custody of a child or the placement of a child in a planned permanent living arrangement shall be made pursuant to this section unless the complaint alleging the abuse, neglect, or dependency contains a prayer requesting permanent custody, temporary custody, or the placement of the child in a planned permanent living arrangement as desired, the summons served on the parents of the child contains as is appropriate a full explanation that the granting of an order for permanent custody permanently divests them of their parental rights, a full explanation that an adjudication that the child is an abused, neglected, or dependent child may result in an order of temporary custody that will cause the removal of the child from their legal custody until the court terminates the order of temporary custody or permanently divests the parents of their parental rights, or a full explanation that the granting of an order for a planned permanent living arrangement will result in the removal of the child from their legal custody if any of the conditions listed in divisions (A)(5)(a) to (c) of this section are found to exist, and the summons served on the parents contains a full explanation of their right to be represented by counsel and to have counsel appointed pursuant to Chapter 120. of the Revised Code if they are indigent.

If after making disposition as authorized by division (A)(2) of this section, a motion is filed that requests permanent custody of the child, the court may grant permanent custody of the child to the movant in accordance with section 2151.414 of the Revised Code.

(C) If the court issues an order for protective supervision pursuant to division (A)(1) of this section, the court may place any reasonable restrictions upon the child, the child's parents, guardian, or custodian, or any other person, including, but not limited to, any of the following:

(1) Order a party, within forty-eight hours after the issuance of the order, to vacate the child's home indefinitely or for a specified period of time;

(2) Order a party, a parent of the child, or a physical custodian of the child to prevent any particular person from having contact with the child;

(3) Issue an order restraining or otherwise controlling the conduct of any person which conduct would not be in the best interest of the child.

(D) As part of its dispositional order, the court shall journalize a case

plan for the child. The journalized case plan shall not be changed except as provided in section 2151.412 of the Revised Code.

(E)(1) The court shall retain jurisdiction over any child for whom the court issues an order of disposition pursuant to division (A) of this section or pursuant to section 2151.414 or 2151.415 of the Revised Code until the child attains the age of eighteen if the child is not mentally retarded, developmentally disabled, or physically impaired, the child attains the age of twenty-one if the child is mentally retarded, developmentally disabled, or physically impaired, or the child is adopted and a final decree of adoption is issued, except that the court may retain jurisdiction over the child and continue any order of disposition under division (A) of this section or under section 2151.414 or 2151.415 of the Revised Code for a specified period of time to enable the child to graduate from high school or vocational school. The court shall make an entry continuing its jurisdiction under this division in the journal.

(2) Any public children services agency, any private child placing agency, the department of ~~human~~ job and family services, or any party, other than any parent whose parental rights with respect to the child have been terminated pursuant to an order issued under division (A)(4) of this section, by filing a motion with the court, may at any time request the court to modify or terminate any order of disposition issued pursuant to division (A) of this section or section 2151.414 or 2151.415 of the Revised Code. The court shall hold a hearing upon the motion as if the hearing were the original dispositional hearing and shall give all parties to the action and the guardian ad litem notice of the hearing pursuant to the Juvenile Rules. If applicable, the court shall comply with section 2151.42 of the Revised Code.

(F) Any temporary custody order issued pursuant to division (A) of this section shall terminate one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care, except that, upon the filing of a motion pursuant to section 2151.415 of the Revised Code, the temporary custody order shall continue and not terminate until the court issues a dispositional order under that section.

(G)(1) No later than one year after the earlier of the date the complaint in the case was filed or the child was first placed in shelter care, a party may ask the court to extend an order for protective supervision for six months or to terminate the order. A party requesting extension or termination of the order shall file a written request for the extension or termination with the court and give notice of the proposed extension or termination in writing before the end of the day after the day of filing it to all parties and the child's

guardian ad litem. If a public children services agency or private child placing agency requests termination of the order, the agency shall file a written status report setting out the facts supporting termination of the order at the time it files the request with the court. If no party requests extension or termination of the order, the court shall notify the parties that the court will extend the order for six months or terminate it and that it may do so without a hearing unless one of the parties requests a hearing. All parties and the guardian ad litem shall have seven days from the date a notice is sent pursuant to this division to object to and request a hearing on the proposed extension or termination.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. At the hearing, the court shall determine whether extension or termination of the order is in the child's best interest. If termination is in the child's best interest, the court shall terminate the order. If extension is in the child's best interest, the court shall extend the order for six months.

(b) If it does not receive a timely request for a hearing, the court may extend the order for six months or terminate it without a hearing and shall journalize the order of extension or termination not later than fourteen days after receiving the request for extension or termination or after the date the court notifies the parties that it will extend or terminate the order. If the court does not extend or terminate the order, it shall schedule a hearing to be held no later than thirty days after the expiration of the applicable fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the child's guardian ad litem. At the hearing, the court shall determine whether extension or termination of the order is in the child's best interest. If termination is in the child's best interest, the court shall terminate the order. If extension is in the child's best interest, the court shall issue an order extending the order for protective supervision six months.

(2) If the court grants an extension of the order for protective supervision pursuant to division (G)(1) of this section, a party may, prior to termination of the extension, file with the court a request for an additional extension of six months or for termination of the order. The court and the parties shall comply with division (G)(1) of this section with respect to extending or terminating the order.

(3) If a court grants an extension pursuant to division (G)(2) of this section, the court shall terminate the order for protective supervision at the

end of the extension.

(H) The court shall not issue a dispositional order pursuant to division (A) of this section that removes a child from the child's home unless the court complies with section 2151.419 of the Revised Code and includes in the dispositional order the findings of fact required by that section.

(I) If a motion or application for an order described in division (A)(6) of this section is made, the court shall not issue the order unless, prior to the issuance of the order, it provides to the person all of the following:

(1) Notice and a copy of the motion or application;

(2) The grounds for the motion or application;

(3) An opportunity to present evidence and witnesses at a hearing regarding the motion or application;

(4) An opportunity to be represented by counsel at the hearing.

(J) The jurisdiction of the court shall terminate one year after the date of the award or, if the court takes any further action in the matter subsequent to the award, the date of the latest further action subsequent to the award, if the court awards legal custody of a child to either of the following:

(1) A legal custodian who, at the time of the award of legal custody, resides in a county of this state other than the county in which the court is located;

(2) A legal custodian who resides in the county in which the court is located at the time of the award of legal custody, but moves to a different county of this state prior to one year after the date of the award or, if the court takes any further action in the matter subsequent to the award, one year after the date of the latest further action subsequent to the award.

The court in the county in which the legal custodian resides then shall have jurisdiction in the matter.

Sec. 2151.36. When a child has been committed as provided by this chapter, the juvenile court shall issue an order pursuant to sections 3113.21 to 3113.219 of the Revised Code requiring that the parent, guardian, or person charged with the child's support pay for the care, support, maintenance, and education of the child. The juvenile court shall order that the parents, guardian, or person pay for the expenses involved in providing orthopedic, medical, or surgical treatment for, or for special care of, the child, enter a judgment for the amount due, and enforce the judgment by execution as in the court of common pleas.

Any expenses incurred for the care, support, maintenance, education, orthopedic, medical, or surgical treatment, and special care of a child who has a legal settlement in another county shall be at the expense of the county of legal settlement if the consent of the juvenile judge of the county of legal

settlement is first obtained. When the consent is obtained, the board of county commissioners of the county in which the child has a legal settlement shall reimburse the committing court for the expenses out of its general fund. If the department of ~~human~~ job and family services considers it to be in the best interest of any delinquent, dependent, unruly, abused, or neglected child who has a legal settlement in a foreign state or country that the child be returned to the state or country of legal settlement, the juvenile court may commit the child to the department for the child's return to that state or country.

Any expenses ordered by the court for the care, support, maintenance, education, orthopedic, medical, or surgical treatment, or special care of a dependent, neglected, abused, unruly, or delinquent child or of a juvenile traffic offender under this chapter, except the part of the expense that may be paid by the state or federal government or paid by the parents, guardians, or person charged with the child's support pursuant to this section, shall be paid from the county treasury upon specifically itemized vouchers, certified to by the judge. The court shall not be responsible for any expenses resulting from the commitment of children to any home, public children services agency, private child placing agency, or other institution, association, or agency, unless the court authorized the expenses at the time of commitment.

Sec. 2151.39. No person, association or agency, public or private, of another state, incorporated or otherwise, shall place a child in a family home or with an agency or institution within the boundaries of this state, either for temporary or permanent care or custody or for adoption, unless such person or association has furnished the department of ~~human~~ job and family services with a medical and social history of the child, pertinent information about the family, agency, association, or institution in this state with whom the sending party desires to place the child, and any other information or financial guaranty required by the department to determine whether the proposed placement will meet the needs of the child. The department may require the party desiring the placement to agree to promptly receive and remove from the state a child brought into the state whose placement has not proven satisfactorily responsive to the needs of the child at any time until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the department. All placements proposed to be made in this state by a party located in a state which is a party to the interstate compact on the placement of children shall be made according to the provisions of sections 5103.20 to 5103.28 of the Revised Code.

Sec. 2151.412. (A) Each public children services agency and private child placing agency shall prepare and maintain a case plan for any child to

whom the agency is providing services and to whom any of the following applies:

(1) The agency filed a complaint pursuant to section 2151.27 of the Revised Code alleging that the child is an abused, neglected, or dependent child;

(2) The agency has temporary or permanent custody of the child;

(3) The child is living at home subject to an order for protective supervision;

(4) The child is in a planned permanent living arrangement.

Except as provided by division (A)(2) of section 5103.153 of the Revised Code, a private child placing agency providing services to a child who is the subject of a voluntary permanent custody surrender agreement entered into under division (B)(2) of section 5103.15 of the Revised Code is not required to prepare and maintain a case plan for that child.

(B)(1) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the content and format of case plans required by division (A) of this section and establishing procedures for developing, implementing, and changing the case plans. The rules shall at a minimum comply with the requirements of Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended.

(2) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code requiring public children services agencies and private child placing agencies to maintain case plans for children and their families who are receiving services in their homes from the agencies and for whom case plans are not required by division (A) of this section. The agencies shall maintain case plans as required by those rules; however, the case plans shall not be subject to any other provision of this section except as specifically required by the rules.

(C) Each public children services agency and private child placing agency that is required by division (A) of this section to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but no later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. If the agency does not have sufficient information prior to the adjudicatory hearing to complete any part of the case plan, the agency shall specify in the case plan the additional information necessary to complete each part of the case plan and the steps that will be taken to obtain that information. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child.

(D) Any agency that is required by division (A) of this section to prepare a case plan shall attempt to obtain an agreement among all parties, including, but not limited to, the parents, guardian, or custodian of the child and the guardian ad litem of the child regarding the content of the case plan. If all parties agree to the content of the case plan and the court approves it, the court shall journalize it as part of its dispositional order. If the agency cannot obtain an agreement upon the contents of the case plan or the court does not approve it, the parties shall present evidence on the contents of the case plan at the dispositional hearing. The court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

(E)(1) All parties, including the parents, guardian, or custodian of the child, are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the journalized case plan may be held in contempt of court.

(2) Any party may propose a change to a substantive part of the case plan, including, but not limited to, the child's placement and the visitation rights of any party. A party proposing a change to the case plan shall file the proposed change with the court and give notice of the proposed change in writing before the end of the day after the day of filing it to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days from the date the notice is sent to object to and request a hearing on the proposed change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(b) If it does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of

division (E)(2) of this section, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(3) If an agency has reasonable cause to believe that a child is suffering from illness or injury and is not receiving proper care and that an appropriate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm, to believe that a child is in immediate danger from the child's surroundings and that an immediate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm to the child, or to believe that a parent, guardian, custodian, or other member of the child's household has abused or neglected the child and that the child is in danger of immediate or threatened physical or emotional harm from that person unless the agency makes an appropriate change in the child's case plan, it may implement the change without prior agreement or a court hearing and, before the end of the next day after the change is made, give all parties, the guardian ad litem of the child, and the court notice of the change. Before the end of the third day after implementing the change in the case plan, the agency shall file a statement of the change with the court and give notice of the filing accompanied by a copy of the statement to all parties and the guardian ad litem. All parties and the guardian ad litem shall have ten days from the date the notice is sent to object to and request a hearing on the change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency shall continue to administer the case plan with the change after the hearing, if the court approves the change. If the court does not approve the change, the court shall make appropriate changes to the case plan and shall journalize the case plan.

(b) If it does not receive a timely request for a hearing, the court may approve the change without a hearing. If the court approves the change without a hearing, it shall journalize the case plan with the change within fourteen days after receipt of the change. If the court does not approve the change to the case plan, it shall schedule a hearing under section 2151.417 of the Revised Code to be held no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child.

(F)(1) All case plans for children in temporary custody shall have the

following general goals:

(a) Consistent with the best interest and special needs of the child, to achieve a safe out-of-home placement in the least restrictive, most family-like setting available and in close proximity to the home from which the child was removed or the home in which the child will be permanently placed;

(b) To eliminate with all due speed the need for the out-of-home placement so that the child can safely return home.

(2) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the general goals of case plans for children subject to dispositional orders for protective supervision, a planned permanent living arrangement, or permanent custody.

(G) In the agency's development of a case plan and the court's review of the case plan, the child's health and safety shall be the paramount concern. The agency and the court shall be guided by the following general priorities:

(1) A child who is residing with or can be placed with the child's parents within a reasonable time should remain in their legal custody even if an order of protective supervision is required for a reasonable period of time;

(2) If both parents of the child have abandoned the child, have relinquished custody of the child, have become incapable of supporting or caring for the child even with reasonable assistance, or have a detrimental effect on the health, safety, and best interest of the child, the child should be placed in the legal custody of a suitable member of the child's extended family;

(3) If a child described in division (G)(2) of this section has no suitable member of the child's extended family to accept legal custody, the child should be placed in the legal custody of a suitable nonrelative who shall be made a party to the proceedings after being given legal custody of the child;

(4) If the child has no suitable member of the child's extended family to accept legal custody of the child and no suitable nonrelative is available to accept legal custody of the child and, if the child temporarily cannot or should not be placed with the child's parents, guardian, or custodian, the child should be placed in the temporary custody of a public children services agency or a private child placing agency;

(5) If the child cannot be placed with either of the child's parents within a reasonable period of time or should not be placed with either, if no suitable member of the child's extended family or suitable nonrelative is available to accept legal custody of the child, and if the agency has a reasonable expectation of placing the child for adoption, the child should be committed

to the permanent custody of the public children services agency or private child placing agency;

(6) If the child is to be placed for adoption or foster care, the placement shall not be delayed or denied on the basis of the child's or adoptive or foster family's race, color, or national origin.

(H) The case plan for a child in temporary custody shall include at a minimum the following requirements if the child is or has been the victim of abuse or neglect or if the child witnessed the commission in the child's household of abuse or neglect against a sibling of the child, a parent of the child, or any other person in the child's household:

(1) A requirement that the child's parents, guardian, or custodian participate in mandatory counseling;

(2) A requirement that the child's parents, guardian, or custodian participate in any supportive services that are required by or provided pursuant to the child's case plan.

(I) A case plan may include, as a supplement, a plan for locating a permanent family placement. The supplement shall not be considered part of the case plan for purposes of division (D) of this section.

Sec. 2151.413. (A) A public children services agency or private child placing agency that, pursuant to an order of disposition under division (A)(2) of section 2151.353 of the Revised Code or under any version of section 2151.353 of the Revised Code that existed prior to January 1, 1989, is granted temporary custody of a child who is not abandoned or orphaned may file a motion in the court that made the disposition of the child requesting permanent custody of the child.

(B) A public children services agency or private child placing agency that, pursuant to an order of disposition under division (A)(2) of section 2151.353 of the Revised Code or under any version of section 2151.353 of the Revised Code that existed prior to January 1, 1989, is granted temporary custody of a child who is orphaned may file a motion in the court that made the disposition of the child requesting permanent custody of the child whenever it can show that no relative of the child is able to take legal custody of the child.

(C) A public children services agency or private child placing agency that, pursuant to an order of disposition under division (A)(5) of section 2151.353 of the Revised Code, places a child in a planned permanent living arrangement may file a motion in the court that made the disposition of the child requesting permanent custody of the child.

(D)(1) Except as provided in division (D)(3) of this section, if a child has been in the temporary custody of one or more public children services

agencies or private child placing agencies for twelve or more months of a consecutive twenty-two month period ending on or after March 18, 1999, the agency with custody shall file a motion requesting permanent custody of the child. The motion shall be filed in the court that issued the current order of temporary custody. For the purposes of this division, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) Except as provided in division (D)(3) of this section, if a court makes a determination pursuant to division (A)(2) of section 2151.419 of the Revised Code, the public children services agency or private child placing agency required to develop the permanency plan for the child under division (K) of section 2151.417 of the Revised Code shall file a motion in the court that made the determination requesting permanent custody of the child.

(3) An agency shall not file a motion for permanent custody under division (D)(1) or (2) of this section if any of the following apply:

(a) The agency documents in the case plan or permanency plan a compelling reason that permanent custody is not in the best interest of the child.

(b) If reasonable efforts to return the child to the child's home are required under section 2151.419 of the Revised Code, the agency has not provided the services required by the case plan to the parents of the child or the child to ensure the safe return of the child to the child's home.

(c) The agency has been granted permanent custody of the child.

(d) The child has been returned home pursuant to court order in accordance with division (A)(3) of section 2151.419 of the Revised Code.

(E) Any agency that files a motion for permanent custody under this section shall include in the case plan of the child who is the subject of the motion, a specific plan of the agency's actions to seek an adoptive family for the child and to prepare the child for adoption.

(F) The department of ~~human~~ job and family services may adopt rules pursuant to Chapter 119. of the Revised Code that set forth the time frames for case reviews and for filing a motion requesting permanent custody under division (D)(1) of this section.

Sec. 2151.416. (A) Each agency that is required by section 2151.412 of the Revised Code to prepare a case plan for a child shall complete a semiannual administrative review of the case plan no later than six months after the earlier of the date on which the complaint in the case was filed or

the child was first placed in shelter care. After the first administrative review, the agency shall complete semiannual administrative reviews no later than every six months. If the court issues an order pursuant to section 2151.414 or 2151.415 of the Revised Code, the agency shall complete an administrative review no later than six months after the court's order and continue to complete administrative reviews no later than every six months after the first review, except that the court hearing held pursuant to section 2151.417 of the Revised Code may take the place of any administrative review that would otherwise be held at the time of the court hearing. When conducting a review, the child's health and safety shall be the paramount concern.

(B) Each administrative review required by division (A) of this section shall be conducted by a review panel of at least three persons, including, but not limited to, both of the following:

(1) A caseworker with day-to-day responsibility for, or familiarity with, the management of the child's case plan;

(2) A person who is not responsible for the management of the child's case plan or for the delivery of services to the child or the parents, guardian, or custodian of the child.

(C) Each semiannual administrative review shall include, but not be limited to, a joint meeting by the review panel with the parents, guardian, or custodian of the child, the guardian ad litem of the child, and the child's foster care provider and shall include an opportunity for those persons to submit any written materials to be included in the case record of the child. If a parent, guardian, custodian, guardian ad litem, or foster care provider of the child cannot be located after reasonable efforts to do so or declines to participate in the administrative review after being contacted, the agency does not have to include them in the joint meeting.

(D) The agency shall prepare a written summary of the semiannual administrative review that shall include, but not be limited to, all of the following:

(1) A conclusion regarding the safety and appropriateness of the child's foster care placement;

(2) The extent of the compliance with the case plan of all parties;

(3) The extent of progress that has been made toward alleviating the circumstances that required the agency to assume temporary custody of the child;

(4) An estimated date by which the child may be returned to and safely maintained in the child's home or placed for adoption or legal custody;

(5) An updated case plan that includes any changes that the agency is

proposing in the case plan;

(6) The recommendation of the agency as to which agency or person should be given custodial rights over the child for the six-month period after the administrative review;

(7) The names of all persons who participated in the administrative review.

(E) The agency shall file the summary with the court no later than seven days after the completion of the administrative review. If the agency proposes a change to the case plan as a result of the administrative review, the agency shall file the proposed change with the court at the time it files the summary. The agency shall give notice of the summary and proposed change in writing before the end of the next day after filing them to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days after the date the notice is sent to object to and request a hearing on the proposed change.

(1) If the court receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held not later than thirty days after the court receives the request. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(2) If the court does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a review hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of this division and division (D) of section 2151.417 of the Revised Code, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(F) The ~~department~~ director of ~~human~~ job and family services may adopt rules pursuant to Chapter 119. of the Revised Code for procedures and standard forms for conducting administrative reviews pursuant to this section.

(G) The juvenile court that receives the written summary of the

administrative review, upon determining, either from the written summary, case plan, or otherwise, that the custody or care arrangement is not in the best interest of the child, may terminate the custody of an agency and place the child in the custody of another institution or association certified by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code.

(H) The department of ~~human~~ job and family services shall report annually to the public and to the general assembly on the results of the review of case plans of each agency and on the results of the summaries submitted to the department under section 3107.10 of the Revised Code. The annual report shall include any information that is required by the department, including, but not limited to, all of the following:

(1) A statistical analysis of the administrative reviews conducted pursuant to this section and section 2151.417 of the Revised Code;

(2) The number of children in temporary or permanent custody for whom an administrative review was conducted, the number of children whose custody status changed during the period, the number of children whose residential placement changed during the period, and the number of residential placement changes for each child during the period;

(3) An analysis of the utilization of public social services by agencies and parents or guardians, and the utilization of the adoption listing service of the department pursuant to section 5103.154 of the Revised Code;

(4) A compilation and analysis of data submitted to the department under section 3107.10 of the Revised Code.

Sec. 2151.421. (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, shall fail to immediately report that knowledge or suspicion to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; speech pathologist or audiologist; coroner;

administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; or a person rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion.

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

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

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

(B) Anyone, who knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child, may report or cause reports to be made of that knowledge or suspicion to the public children services agency or to a municipal or county peace officer.

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

report shall contain:

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

(2) The child's age and the nature and extent of the child's known or suspected injuries, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect.

Any person, who is required by division (A) of this section to report known or suspected child abuse or child neglect, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D)(1) Upon the receipt of a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) On receipt of a report pursuant to this division or division (A) or (B) of this section, the public children services agency shall comply with section 2151.422 of the Revised Code.

(E) No township, municipal, or county 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.

(F)(1) Except as provided in section 2151.422 of the Revised Code, the public children services agency shall investigate, within twenty-four hours, each report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect 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 (J) of this section. A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to a central registry which the ~~state~~ department of ~~human~~ job and family services shall maintain in order to determine whether prior reports have been made in other counties concerning the child or other principals in the case. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

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

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

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

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

(H)(1) Except as provided in divisions (H)(4), (M), and (N) of this

section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

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

(4) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

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

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

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

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

(c) The county peace officer;

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

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

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of ~~human~~ job and family services, the county department of ~~human~~ job and family services.

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

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

(a) The roles and responsibilities for handling emergency and ~~non-emergency~~ nonemergency cases of abuse and neglect;

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

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided with the following information:

(a) Whether the agency has initiated an investigation of the report;

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

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

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

subject of the report;

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

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

When a municipal or county 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 (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

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

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

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

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

(M) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency

shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

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

Sec. 2151.43. In cases against an adult under sections 2151.01 to 2151.54 of the Revised Code, any person may file an affidavit with the clerk of the juvenile court setting forth briefly, in plain and ordinary language, the charges against the accused who shall be tried thereon. When the child is a recipient of aid pursuant to Chapter 5107. or 5115. of the Revised Code, the county department of ~~human~~ job and family services shall file charges against any person who fails to provide support to a child in violation of section 2919.21 of the Revised Code, unless the department files charges under section 3113.06 of the Revised Code, or unless charges of nonsupport are filed by a relative or guardian of the child, or unless action to enforce support is brought under Chapter 3115. of the Revised Code.

In such prosecution an indictment by the grand jury or information by the prosecuting attorney shall not be required. The clerk shall issue a warrant for the arrest of the accused, who, when arrested, shall be taken before the juvenile judge and tried according to such sections.

The affidavit may be amended at any time before or during the trial.

The judge may bind such adult over to the grand jury, where the act

complained of constitutes a felony.

Sec. 2151.49. In every case of conviction under sections 2151.01 to 2151.54 of the Revised Code, where imprisonment is imposed as part of the punishment, the juvenile judge may suspend sentence, before or during commitment, upon such condition as the juvenile judge imposes. In the case of conviction for non-support of a child who is receiving aid under Chapter 5107. or 5115. of the Revised Code, if the juvenile judge suspends sentence on condition that the person make payments for support, the payment shall be made to the county department of ~~human~~ job and family services rather than to the child or custodian of the child.

The court, in accordance with section 3113.217 of the Revised Code, shall include in each support order made under this section the requirement that one or both of the parents provide for the health care needs of the child to the satisfaction of the court.

Sec. 2151.86. (A)(1) The appointing or hiring officer of any entity that employs any person responsible for a child's care in out-of-home care shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the entity for employment as a person responsible for a child's care in out-of-home care. The administrative director of any entity that designates a person as a prospective adoptive parent or as a prospective foster parent shall request the superintendent to conduct a criminal records check with respect to that person. If the applicant, prospective adoptive parent, or prospective foster parent does not present proof that the applicant or prospective adoptive or foster parent has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant or prospective adoptive or foster parent from the federal bureau of investigation in a criminal records check, the appointing or hiring officer or administrative director shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check. If the applicant, prospective adoptive parent, or prospective foster parent presents proof that the applicant or prospective adoptive or foster parent has been a resident of this state for that five-year period, the appointing or hiring officer or administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant, prospective adoptive

parent, or prospective foster parent a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, prospective adoptive parent, or prospective foster parent, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant, prospective adoptive parent, or prospective foster parent who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's or prospective adoptive or foster parent's fingerprints. If an applicant, prospective adoptive parent, or prospective foster parent, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's or prospective adoptive or foster parent's fingerprints, the entity shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section and shall not consider the prospective adoptive parent or prospective foster parent as an adoptive parent or foster parent.

(B)(1) No entity shall employ a person as a person responsible for a child's care in out-of-home care or permit a person to become an adoptive parent or foster parent if the person previously has been convicted of or pleaded guilty to any of the following, unless the person meets rehabilitation standards established in rules adopted under division (E) of this section:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the

lation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses described in division (B)(1)(a) of this section.

(2) An out-of-home care entity may employ an applicant conditionally until the criminal records check required by this section is completed and the entity receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the entity shall release the applicant from employment.

(C)(1) The out-of-home care entity shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A)(1) of this section.

(2) An out-of-home care entity may charge an applicant, prospective adoptive parent, or prospective foster parent a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the entity pays under division (C)(1) of this section. If a fee is charged under this division, the entity shall notify the applicant, prospective adoptive parent, or prospective foster parent at the time of the person's initial application for employment or for becoming an adoptive parent or foster parent of the amount of the fee and that, unless the fee is paid, the entity will not consider the person for employment or as an adoptive parent or foster parent.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant, prospective adoptive parent, or prospective foster parent who is the subject of the criminal records check or the applicant's or prospective adoptive or foster parent's representative; the entity requesting the criminal records check or its representative; the ~~state~~ department of ~~human~~ job and family services or a county department of ~~human~~ job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant or

the denial of consideration as an adoptive parent or foster parent.

(E) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (B)(1) of this section must meet for an entity to employ the person as a person responsible for a child's care in out-of-home care or permit the person to become an adoptive parent or foster parent.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment with an entity as a person responsible for a child's care in out-of-home care or the person's initial application for becoming an adoptive parent or foster parent, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position or if the person is to be given final consideration as an adoptive parent or foster parent.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care.

(2) "Person responsible for a child's care in out-of-home care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

(3) "Children's hospital" means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under

section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (G)(3)(a) of this section.

(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(5) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 2301.35. (A) Each county shall have a child support enforcement agency. A government entity designated under this section prior to ~~the effective date of this amendment~~ October 1, 1997, or a private or government entity designated under section 307.981 of the Revised Code on or after that date may serve as a county's child support enforcement agency.

(B) Each child support enforcement agency shall enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with the partnership agreement the board enters into under section 307.98 and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the agency.

(C) The child support enforcement agency for a county is the local Title IV-D agency for the county and shall operate a program for support enforcement in the county, which program shall comply with Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, any rules adopted pursuant to that title, and sections 2151.23, 2151.231, 2151.232, 2151.33, 2301.34 to 2301.46, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3111.20, 3111.211, 3111.22, 3113.04, 3113.21 to 3113.219, 3113.31, and 3115.31 of the Revised Code. Each child support enforcement agency shall be operated under the supervision of the ~~state~~ department of ~~human~~ job and family services in accordance with the program of child support enforcement established pursuant to section 5101.31 of the Revised Code, shall be responsible in the county it serves for the enforcement of support orders, and shall perform all administrative duties related to the enforcement of any support order. Except as provided in division (H) of this section and pursuant to sections 2301.38 and 2301.45 of the Revised Code, no child support enforcement agency shall collect any support amounts due under a support order as part of its duties to enforce support orders. No child support enforcement agency shall use any social security number made available to it under section 3705.07 of the Revised Code for any purpose other than child support enforcement. The department shall ensure that all child support enforcement agencies comply with all applicable state and federal support regulations, including the affirmative duties of Title IV-D of the Social Security Act.

Each child support enforcement agency may enter into contracts with public agencies and private vendors for assistance in establishing paternity or support obligations, or for the performance of other administrative duties of the agency. Each child support enforcement agency may contract with a collection agent for the collection of arrearages owed under child support orders being administered by the agency. Before entering into a contract for assistance in establishing paternity or support obligations, for other administrative services, or for the collection of arrearages by a collection agent, a child support enforcement agency shall comply with sections 307.86 to 307.92 of the Revised Code and any rules adopted by the ~~state department~~ director of ~~human~~ job and family services pursuant to division (D)(1) of this section.

(D)(1) The ~~state department~~ director of ~~human~~ job and family services shall adopt rules under Chapter 119. of the Revised Code governing the operation of support enforcement by child support enforcement agencies. The rules shall include, but shall not be limited to, provisions relating to contracts between the agencies and boards of county commissioners entered into under division (B)(1) of this section, requirements for public hearings by the agencies, and provisions for appeals of agency decisions under procedures established by the ~~department~~ director.

(2) The ~~state department~~ director of ~~human~~ job and family services shall adopt in accordance with Chapter 119. of the Revised Code rules governing the establishment by child support enforcement agencies of on-site genetic testing programs to be used in actions under sections 3111.01 to 3111.19 of the Revised Code and in administrative procedures under sections 3111.20 to 3111.29 of the Revised Code. The rules shall include, but are not limited to, provisions relating to the environment in which a blood or buccal cell sample may be drawn, the medical personnel who may draw a sample, the trained personnel who may perform the genetic comparison, the types of genetic testing that may be performed on a sample, and the procedure for notifying the court of the location at which the sample will be drawn, who will draw the sample, and who will perform the genetic testing on the sample, and any other procedures or standards the ~~department~~ director determines are necessary for the implementation of on-site genetic testing.

(E) Each child support enforcement agency designated under this section shall enter into written agreements with the courts, the prosecuting attorney, and law enforcement officials of the county it serves, which agreements shall establish cooperative working arrangements and specify areas of responsibility for the enforcement of support among the agency, courts, and officials. The agreements shall provide for the reimbursement of

the courts and law enforcement officials for the responsibilities they assume and actions they undertake pursuant to such agreements.

(F)(1) A child support enforcement agency shall maintain records of support orders being administered or otherwise handled by the agency pursuant to section 5101.319 of the Revised Code.

(2) Each obligor and each obligee under a support order may review all records maintained under division (F)(1) of this section that pertain to the support order and any other information maintained by the child support enforcement agency, except to the extent prohibited by state or federal law.

(G)(1) A court or administrative agency that issues or modifies a support order shall impose a processing charge that is the greater of two per cent of the support payment to be collected under a support order or one dollar per month on the obligor under the support order. The obligor shall pay the amount with every current support payment, and with every payment on arrearages. No court or agency may call the charge a poundage fee.

(2) The board of county commissioners of each county shall budget and appropriate to the child support enforcement agency serving the county all of the following:

(a) All federal money payable to the child support enforcement agency on the basis of its success in implementing activities related to child support enforcement under Title IV-D of the Social Security Act;

(b) Any funds that may be received from other federal or state sources for the child support enforcement agency;

(3) All moneys received from the federal or state government for reimbursement for support enforcement activities shall be used solely for support enforcement activities.

(4) A board of county commissioners may request that the department of ~~human~~ job and family services grant a waiver of the requirement that the money specified in division (G)(2)(a) of this section be budgeted and appropriated to the child support enforcement agency if the board can demonstrate, by meeting criteria established by the department, that the child support enforcement agency is effectively using procedures for establishing paternity, meeting the mandated service needs of clients, and complying with all applicable state and federal support rules and regulations.

(5) A child support enforcement agency may invest any of the moneys collected pursuant to the performance of its duties under sections 2301.34 to 2301.46 of the Revised Code in a repurchase agreement in which a bank agrees to sell short-term federally guaranteed securities with an obligation of

the bank to repurchase the securities. All interest derived pursuant to investments made under this division shall be retained by the child support enforcement agency and used solely for support enforcement activities.

(H)(1) Notwithstanding any other section of the Revised Code and except as provided in division (H)(4) of this section, a child support enforcement agency shall collect and disburse all support amounts under a support order it is administering pursuant to law as it existed prior to ~~the effective date of this amendment~~ January 1, 1998, and shall collect the additional amount imposed under division (G)(1) of this section as it existed prior to ~~the effective date of this amendment~~ January 1, 1998, until the support order is converted to the automated data processing system under section 5101.322 of the Revised Code and the division of child support in the department of ~~human~~ job and family services authorizes centralized collection and disbursement of support amounts under the support order pursuant to the rules adopted under division (F)(1) of section 5101.325 of the Revised Code. Once the support order is converted and the division gives the authorization, the support amounts and the additional amount shall be collected, and the support amount shall be disbursed, under the support order according to the provisions of House Bill No. 352 of the 122nd general assembly.

(2) Notwithstanding any other section of the Revised Code and except as provided in division (H)(4) of this section, the agency administering the support order shall collect the amounts permitted to be collected, and perform other duties required, with respect to the support order pursuant to division (D)(1) of section 2301.373, division (B)(3)(a) of section 2301.374, divisions (E)(4)(b), (F), and (I) of section 3111.23, division (E) of section 3111.99, divisions (G)(4)(b), (H)(3), and (K) of section 3113.21, division (B) of section 3113.212, division (E) of section 3113.99, and division (A)(3) of section 5101.323 of the Revised Code as those sections existed prior to ~~the effective date of this amendment~~ January 1, 1998, and the agency shall collect the amounts permitted to be collected by the division, and perform other duties required of the division, with respect to the support order pursuant to division (D)(1)(a) of section 2301.375 and division (D)(2) of section 2301.43 of the Revised Code as those sections are enacted by House Bill No. 352 of the 122nd general assembly, until the support order is converted and authorization for centralized collection and disbursement is given. Once the support order is converted and the authorization is given, the amounts shall be collected, and the duties shall be performed, by the division according to the provisions of House Bill No. 352 of the 122nd general assembly.

(3) All support orders shall be converted and all authorizations shall be given by the division prior to July 1, 1999.

(4)(a) After conversion occurs and authorization for centralized collection and disbursement is granted pursuant to this section, a child support enforcement agency may continue to collect the following amounts from obligors who pay the amounts in person at the office of the agency:

(i) Current support amounts and arrearages due under a support order being administered by the agency and the additional amount imposed pursuant to division (G)(1) of this section with respect to the order;

(ii) Amounts collected pursuant to division (D)(1) of section 2301.373, divisions (B)(3)(a) and (C)(3)(a) of section 2301.374, section 2301.375, division (D)(2) of section 2301.43, division (E) of section 3111.99, division (E) of section 3113.99, and division (A)(3) of section 5101.323 of the Revised Code.

(b) All amounts collected pursuant to division (H)(4)(a) of this section shall be forwarded to the division no later than one day after receipt of the amounts.

(5) Amounts collected by a collection agent that has a contract with a child support enforcement agency pursuant to division (C) of this section shall be paid to the division. The agency shall forward any amounts collected pursuant to sections 2301.38 and 2301.45 of the Revised Code to the division no later than one day after receipt of those amounts.

(I)(1) Subject to division (I)(2) of this section, all support orders that are administered by a child support enforcement agency designated under this section and are eligible for Title IV-D services shall be Title IV-D cases under Title IV-D of the "Social Security Act." Subject to division (I)(2) of this section, all obligees of support orders administered by the child support enforcement agency shall be considered to have filed a signed application for Title IV-D services.

(2) A court that issues or modifies a support order shall require the obligee under the order to sign, at the time of the issuance or modification of the order, an application for Title IV-D services and to file, as soon as possible, the signed application with the child support enforcement agency that will administer the order. The application shall be on a form prescribed by the department of ~~human~~ job and family services. A support order that is administered by a child support enforcement agency, and that is eligible for Title IV-D services shall be a Title IV-D case under Title IV-D of the "Social Security Act" only upon the filing of the signed application for Title IV-D services.

(3) A child support enforcement agency shall make available an

tion for Title IV-D services to all persons requesting a child support enforcement agency's assistance in an action under sections 3111.01 to 3111.19 of the Revised Code or in an administrative proceeding brought under sections 3111.20 to 3111.29 of the Revised Code.

(J)(1) As used in this section, "current support payment" means the amount of support due an obligee that an obligor is required to pay in a particular payment for the current month as specified in a support order. "Current support payment" does not include payments on arrearages under the support order.

(2) As used in the Revised Code, "child support enforcement agency" means the child support enforcement agency designated under this section prior to ~~the effective date of this amendment~~ October 1, 1997, or a private or government entity designated a child support enforcement agency under section 307.981 of the Revised Code on or after that date.

Sec. 2301.356. If a child support enforcement agency is made a party to an action brought to establish a parent and child relationship under sections 3111.01 to 3111.19 of the Revised Code and the court orders the parties to the action to submit to genetic testing or the agency orders the parties to submit to genetic testing under sections 3111.22 to 3111.29 of the Revised Code, the agency shall provide for collection of samples and performance of genetic testing in accordance with generally accepted medical techniques. If a court ordered the genetic testing, the agency shall inform the court of the procedures for collecting the samples and performing the genetic tests, in accordance with the rules governing on-site genetic testing adopted by the ~~department~~ director of ~~human~~ job and family services pursuant to section 2301.35 of the Revised Code.

Sec. 2301.358. (A) A child support enforcement agency, in accordance with the rules adopted by the ~~department~~ director of ~~human~~ job and family services pursuant to division (B) of this section, shall employ an administrative officer, contract with another entity to provide an administrative officer, or contract with an individual to serve as an administrative officer to issue, in accordance with sections 3111.22 to 3111.29 and 3113.215 of the Revised Code, administrative orders determining the existence or nonexistence of a parent and child relationship and requiring the payment of child support, or in accordance with sections 3111.20, 3111.23 to 3111.29, and 3113.215 of the Revised Code, administrative orders requiring the payment of child support.

(B) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code regulating administrative officers who issue administrative orders described in division

(A) of this section, including, but not limited to:

(1) The qualifications of the administrative officer;

(2) Any other procedures, requirements, or standards necessary for the employment of the administrative officer.

Sec. 2301.36. (A) Upon issuing or modifying a support order, issuing any withholding or deduction notice described in division (D) of section 3113.21 of the Revised Code, or issuing a court order described in division (D)(3) or (4) of that section, the court shall require that support payments be made to the division of child support in the department of ~~human~~ job and family services as trustee for remittance to the person entitled to receive payments, except as otherwise provided in division (H) of section 2301.35 or sections 2151.49 and 3113.07 of the Revised Code. Any payment of money by the person responsible for the support payments under a support order to the person entitled to receive the support payments that is not made to the division in accordance with the applicable support order shall not be considered as a payment of support and, unless the payment is made to discharge an obligation other than support, shall be deemed to be a gift. Division (C) of section 3113.211 and section 5101.325 of the Revised Code apply to support payments made to the division.

(B) When a support order is issued or modified, a withholding or deduction notice described in division (D) of section 3113.21 or division (B) of section 3111.23 of the Revised Code is issued, or an order described in division (D)(3) or (4) of section 3113.21 or section 3111.231 of the Revised Code is issued, or at any time after the support order is issued or modified, the court may order the division to, or the agency may issue an order requiring the division to, transmit the payments or make them payable to any third person that is either agreed upon by the parties and approved by the court or appointed by the court, with respect to a court-issued support order, or is either agreed upon by the parties and approved by the agency or appointed by the agency, with respect to an administrative support order. Third persons include, but are not limited to, a trustee, a custodian, the guardian of the estate of the child, the county department of ~~human~~ job and family services, public children services agency, or any appropriate social agency.

(C) Any person named pursuant to division (B) of this section is entitled to receive the support payments. The court may allow the person to receive a reasonable fee for services rendered pursuant to this section. The person shall make financial reports in connection with these services at the time and in the manner prescribed by the court or as required by law.

(D) The parties affected by the support order shall inform the child

support enforcement agency of any change of name or address or other change of conditions that may affect the administration of the order.

(E) Any person entitled to receive support payments either personally or on behalf of another person, by reason of any support order that does not direct that payments be made to the division, may apply to the appropriate agency for the administration of the order. Upon receipt of the application, the agency has the same powers to administer the order as it would have had if the order had been entered under division (A) of this section. The agency shall notify the obligor by any method of service authorized under the Civil Rules to make all support payments due after service of the notice upon the obligor to the division. An obligor so notified by a child support enforcement shall make all subsequent payments to the division unless the involved court, upon the obligor's application filed within thirty days after service of the notice upon the obligor, orders the child support enforcement agency not to administer the support order.

Sec. 2301.37. (A) If the records maintained by a child support enforcement agency indicate that an obligor is in default, the agency shall comply with section 3113.21 of the Revised Code.

(B) If the court is required to issue a withholding or deduction notice under division (D) of section 3113.21 of the Revised Code or to issue a court order described in division (D)(3) or (4) of that section and fails to do so, if the court issued an order under division (B)(1) of section 3113.21 of the Revised Code, as it existed immediately preceding December 1, 1986, or issues a withholding or deduction notice under division (D) of section 3113.21 of the Revised Code or issues a court order described in division (D)(3) or (4) of that section and the court determines that the order, withholding or deduction notice will not ensure payment of the support due under the child support order, or if the obligor fails after the issuance of a notice or court order under section 3113.21 of the Revised Code to comply with the notice or court order, the court shall notify the child support enforcement agency, and the agency shall notify the obligee of the default, of the obligee's rights and remedies, and that the child support enforcement agency is the agency responsible in the county for enforcing support orders under section 2301.35 of the Revised Code, Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and section 5101.31 of the Revised Code. The notice shall contain a printed explanation of the provisions of sections 2301.37 to 2301.40 and 3113.21 of the Revised Code.

(C) No child support enforcement agency, solely because the support due under a support order has not been paid or has not been paid

periodically or recently, shall consider, list, or otherwise administer the support order or the case pertaining to it as if either were closed or close the files or the case pertaining to the support order. The ~~department~~ director of ~~human~~ job and family services shall adopt, revise, or amend rules under Chapter 119. of the Revised Code to assist in the implementation of this division.

Sec. 2301.371. (A) If a child support enforcement agency discovers pursuant to an investigation conducted under section 2301.37 of the Revised Code that an obligor under a child support order that it is administering may be receiving unemployment compensation benefits or if a child support enforcement agency receives notice or otherwise discovers that an obligor under a child support order may be receiving unemployment compensation benefits, the agency promptly shall conduct an investigation to determine whether the obligor is receiving unemployment compensation benefits and to determine the amount of the benefits. The investigation shall be completed within ten days of the agency's discovery or receipt of the notice.

(B) Upon completion of an investigation conducted under division (A) of this section, if the agency finds that the obligor is receiving unemployment compensation benefits, it shall, in accordance with sections 3111.20 to 3111.28 and 3113.21 to 3113.219 of the Revised Code, division (D)(4) of section 4141.28 of the Revised Code, and federal law governing the ~~bureau~~ department of ~~employment~~ job and family services, notify the ~~bureau~~ department of ~~employment~~ job and family services to withhold or deduct an amount from the unemployment compensation benefits to pay child support obligations.

The agency may not impose the processing charge pursuant to division (G)(1) of section 2301.35 of the Revised Code with respect to amounts withheld or deducted from unemployment compensation pursuant to this section.

(C) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, which rules shall be consistent with division (D)(4) of section 4141.28 of the Revised Code and federal law governing the ~~bureau of employment services~~ department.

Sec. 2301.372. If a court or a child support enforcement agency fails to comply with the requirements of section 2301.37 or 3113.21 of the Revised Code and if the rights to support have been assigned to the department of ~~human~~ job and family services under section 5107.20 of the Revised Code or the responsibility for the collection of support has been assumed under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A.

651, as amended, the child support enforcement agency shall, unless the office of the prosecuting attorney has been designated as the child support enforcement agency for the county, notify the prosecuting attorney of the county in which the obligee resides. If the office of the prosecuting attorney has been designated as the child support enforcement agency, the board of county commissioners of the county shall seek a writ of mandamus under Chapter 2731. of the Revised Code directing the prosecuting attorney to comply with the requirements of this section and section 2301.37 or 3113.21 of the Revised Code. Upon receipt of the notice or the issuance of the writ of mandamus, the prosecuting attorney shall commence either or both of the following:

(A) Proceedings under section 3113.21 of the Revised Code requesting the issuance of one or more orders under division (D) of that section;

(B) A civil action in the small claims division of the municipal or county court within whose jurisdiction the obligor resides.

Sec. 2301.373. (A)(1) As used in this section and sections 2301.374 and 2301.375 of the Revised Code, "child support order" means any order issued for the support of a child pursuant to Chapter 3115. or section 2151.23, 2151.231, 2151.232, 2151.36, 2151.49, 3105.21, 3109.05, 3111.13, 3111.20, 3111.211, 3111.22, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code.

(2) As used in this section:

(a) "Board" means any entity that has the authority pursuant to Title XLVII of the Revised Code to issue a license, and any other agency of this state, other than the supreme court, that has the authority to issue a license that authorizes an individual to engage in an occupation or profession. "Board" includes an administrative officer that has authority to issue a license that authorizes an individual to engage in an occupation or profession.

(b) "License" includes a license, certificate, permit, registration, or other authorization to engage in an occupation or profession.

(c) "Obligor" means an individual required to pay support under a child support order.

(B)(1) If a court or child support enforcement agency makes a final and enforceable determination pursuant to division (B) of section 3113.21 of the Revised Code that an individual is in default under a child support order, the agency administering the child support order may determine whether the individual holds a license issued by a board or, if possible, whether the individual has applied for, or is likely to apply for, a license. If the agency determines that the individual is a license holder, has applied for, or is likely

to apply for a license, it shall send to the individual the notice specified in division (C) of this section. The agency also may send a notice to the board that gives the name and social security number or other identifying number of the individual and states that a court or agency has determined the individual to be in default under a child support order.

(2) If an obligor fails, after receiving appropriate notice, to comply with a subpoena or warrant issued by the court or a child support enforcement agency with respect to a proceeding to enforce a child support order, the agency administering or handling the child support order may determine whether the obligor holds a license or, if possible, whether the obligor has applied for, or is likely to apply for, a license. If the agency determines that the obligor is a license holder, has applied for, or is likely to apply for a license, it shall send the obligor the notice specified in division (C) of this section. The agency may also send a notice to the board that gives the name and social security number or other identifying number of the obligor and states that the obligor has failed to comply with a warrant or subpoena issued by a court or child support enforcement agency with respect to a proceeding to enforce a child support order.

(C) Notice shall be sent to the individual described in division (B) of this section in compliance with division (G)(1) of section 3113.21 of the Revised Code. The notice shall specify that a court or agency has determined the individual to be in default under a child support order or that the individual is an obligor who has failed to comply with a subpoena or warrant issued by a court or agency with respect to a proceeding to enforce a child support order, that a notice containing the individual's name and social security number or other identification number may be sent under division (B) of this section to every board that has authority to issue or has issued the individual a license, and that, if the board receives that notice and determines that the individual is the individual named in that notice and the board has not received notice under division (D) of this section, all of the following will occur:

(1) The board will not issue any license to the individual or renew any license of the individual;

(2) The board will suspend any license of the individual if it determines that the individual is the individual named in the notice sent to the board under division (B) of this section;

(3) If the individual is the individual named in the notice, the board will not issue any license to the individual, and will not reinstate a suspended license, until the board receives a notice under division (D) of this section.

(D)(1) An agency that sent a notice to a board under division (B)(1) of

this section shall send to each board to which it sent the notice a further notice that the individual is not in default under a child support order if it determines that the individual is not in default or any of the following occurs:

(a) The individual makes full payment to the division of child support in the department of ~~human~~ job and family services or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency of the arrearage that was the basis for the court or agency determination that the individual was in default;

(b) An appropriate withholding or deduction notice or other appropriate order has been issued pursuant to section 3113.21 of the Revised Code to collect current support and any arrearage due under the child support order that was in default and the individual is complying with the notice or order;

(c) A new child support order has been issued or the child support order that was in default has been modified as provided under sections 3113.21 to 3113.219 of the Revised Code to collect current support and any arrearage due under the child support order that was in default and the individual is complying with the new or modified child support order.

The agency shall send the notice under this division not later than seven days after the agency determines the individual is not in default or that any of the circumstances specified in division (D)(1)(a), (b), or (c) of this section has occurred.

(2) An agency that sent a notice to a board under division (B)(2) of this section shall send to each board to which it sent the notice a further notice that the obligor is no longer out of compliance if the court or agency that issued the warrant or subpoena removes the warrant or determines that the obligor has complied with the subpoena.

The agency shall send the notice under this division not later than seven days after the agency determines that either of the circumstances specified in division (D)(2) has occurred.

(E)(1) A board shall require each application for a license, or renewal of a license, issued by the board to include the applicant's social security number.

(2) On receipt of a notice pursuant to division (B) of this section, a board shall determine whether the individual named in the notice holds or has applied for a license from the board. If the board determines that the individual holds or has applied for a license and the individual is the individual named in the notice and does not receive a notice pursuant to division (D) of this section, the board may not issue a license to the individual, may not renew a license issued to the individual, and shall

spend any license issued to the individual.

(3) The board shall maintain a file containing each notice it receives pursuant to division (B) of this section that names an individual who does not hold a license issued by the board. On receipt of an application for a license from such an individual, the board shall proceed in accordance with division (E)(2) of this section.

(4) Not later than seven days after receipt of a notice pursuant to division (D) of this section, the board shall, if the individual is otherwise eligible for the license and wants the license, issue a license to or renew a license of the individual, or if the individual's license was suspended pursuant to division (E)(2) of this section, end the suspension. The board may charge a fee of not more than fifty dollars to issue or renew or end the suspension of a license pursuant to this division.

(5) Notwithstanding section 119.06 of the Revised Code, the board shall not hold any hearing in connection with an order refusing to issue or renew a license for, or suspending a license of, an individual pursuant to this section.

(F) The ~~department~~ director of ~~human~~ job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 2301.374. (A) The director of ~~human~~ job and family services services shall specify a date for the purposes of this section, which shall be the later of the date the support enforcement tracking system is expected to be operational in all the counties of the state, or November 15, 1997.

(B)(1)(a) If a court or child support enforcement agency makes a final and enforceable determination pursuant to division (B) of section 3113.21 of the Revised Code prior to the date specified under division (A) of this section that an individual is in default under a child support order, the agency administering the child support order may determine whether the individual holds a commercial driver's license or commercial driver's temporary instruction permit issued by the registrar of motor vehicles or a deputy registrar or, if possible, whether the individual has applied, or is likely to apply, for such a license or permit. If the agency determines that the individual holds, has applied for, or is likely to apply for, such a license or permit, it shall send the individual the notice specified in division (B)(2) of this section. The agency also may send a notice to the registrar that gives the name and social security number or other identifying number of the individual and states that a court or agency has determined the individual to be in default under a child support order.

(b) If an individual required to pay support under a child support order

prior to the date specified in division (A) of this section fails, after receiving appropriate notice, to comply with a subpoena or warrant issued by the court or a child support enforcement agency with respect to a proceeding to enforce a child support order, the agency administering the child support order may determine whether the individual holds a commercial driver's license or commercial driver's temporary instruction permit issued by the registrar of motor vehicles or a deputy registrar or, if possible, whether the individual has applied, or is likely to apply, for such a license or permit. If the agency determines that the individual holds, has applied for, or is likely to apply for, such a license or permit, it shall send the individual the notice specified in division (B)(2) of this section. The agency may also send a notice to the registrar of motor vehicles that gives the name and social security number or other identifying number of the individual and states that the individual has failed to comply with a warrant or subpoena issued by a court or child support enforcement agency with respect to a proceeding to enforce a child support order.

(2) Notice shall be sent to the individual described in division (B)(1) of this section in compliance with division (G)(1) of section 3113.21 of the Revised Code. The notice shall specify that a court or agency has determined the individual to be in default under a child support order or that the individual is an obligor under a child support order who has failed to comply with a subpoena or warrant issued by a court or agency with respect to a proceeding to enforce a child support order, that a notice containing the individual's name and social security number or other identification number may be sent under division (B)(1) of this section to the registrar, and that, if the registrar receives that notice and determines that the individual is the individual named in that notice and the registrar has not received notice under division (B)(3) of this section, all of the following will occur:

(a) The registrar and all deputy registrars will be prohibited from issuing to, or renewing for, the individual a commercial driver's license or commercial driver's temporary instruction permit;

(b) If the individual holds a commercial driver's license or commercial driver's temporary instruction permit, the registrar will impose a disqualification as defined in section 4506.01 of the Revised Code with respect to the license or permit if the registrar determines that the individual is the individual named in the notice sent pursuant to division (B)(1) of this section;

(c) If the individual is the individual named in the notice, the individual will not be issued, and the disqualification will not be removed with respect to, any license or permit listed in division (B)(2) of this section until the

strar receives a notice under division (B)(3) of this section.

(3)(a) An agency that sent a notice under division (B)(1)(a) of this section shall send to the registrar a notice that the individual is not in default under a child support order if it determines that the individual is not in default or any of the following occurs:

(i) The individual makes full payment to the division of child support in the department of ~~human~~ job and family services services or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency of the arrearage that was the basis for the court or agency determination that the individual was in default;

(ii) An appropriate withholding or deduction notice or other appropriate order has been issued pursuant to section 3113.21 of the Revised Code to collect current support and any arrearage due under the child support order that was in default and the individual is complying with the notice or order;

(iii) A new child support order has been issued or the child support order that was in default has been modified as provided under sections 3113.21 to 3113.219 of the Revised Code to collect current support and any arrearage due under the child support order that was in default and the individual is complying with the new or modified child support order.

The agency shall send the notice under this division not later than seven days after it determines the individual is not in default or that any of the circumstances specified in division (B)(3)(a) of this section has occurred.

(b) An agency that sent a notice under division (B)(1)(b) of this section shall send to the registrar a notice that the individual is no longer out of compliance if the court or agency that issued the warrant or subpoena removes the warrant or determines that the individual has complied with the subpoena.

The agency shall send the notice under this division not later than seven days after the agency determines that either of the circumstances specified in division (B)(3)(b) has occurred.

(4)(a) On receipt of a notice pursuant to division (B)(1) of this section, the registrar shall determine whether the individual named in the notice holds or has applied for a commercial driver's license or commercial driver's temporary instruction permit. If the registrar determines that the individual holds or has applied for a license or permit and the individual is the individual named in the notice and does not receive a notice pursuant to division (B)(3) of this section, the registrar immediately shall provide notice of the determination to each deputy registrar. The registrar or a deputy registrar may not issue to the individual and may not renew for the individual a commercial driver's license or commercial driver's temporary

instruction permit and the registrar shall impose a disqualification on the individual with respect to the license or permit held by the individual.

(b) The registrar shall maintain a list of names of individuals identified in notices sent to the registrar pursuant to division (B)(1) of this section that do not hold a commercial driver's license or commercial driver's temporary instruction permit. The registrar shall update the list quarterly and provide each deputy registrar with a copy. On receipt of an application for such a license or permit from an individual who appears on the list, a deputy registrar shall notify the registrar. On receipt of an application for such a license or permit from such an individual or on receipt of a notice from a deputy registrar pursuant to division (B)(4)(b) of this section, the registrar shall proceed in accordance with division (B)(4)(a) of this section.

(c) Not later than seven days after receipt of a notice pursuant to division (B)(3) of this section, the registrar shall notify each deputy registrar of the notice. The registrar and each deputy registrar shall then, if the individual otherwise is eligible for the license or permit and wants the license or permit, issue a license or permit to, or renew a license or permit of, the individual, or, if a disqualification was imposed on the individual with respect to the individual's license or permit pursuant to division (B)(4)(a) of this section, remove the disqualification. The registrar or a deputy registrar may charge a fee of not more than twenty-five dollars for issuing or renewing a license or permit for an individual or removing the disqualification imposed on the individual's license or permit pursuant to this division. The fees collected by the registrar pursuant to this section shall be paid into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

(d) Notwithstanding section 119.06 of the Revised Code, the registrar shall not hold any hearing in connection with an order refusing to issue or renew a license or permit for, or imposing a disqualification with respect to a license or permit of, an individual pursuant to this section.

(C)(1)(a) If a court or child support enforcement agency makes a final and enforceable determination pursuant to division (B) of section 3113.21 of the Revised Code on or after the date specified under division (A) of this section that an individual is in default under a child support order, the agency administering the child support order may determine whether the individual holds a driver's or commercial driver's license, motorcycle operator's license or endorsement, temporary instruction permit, or commercial driver's temporary instruction permit issued by the registrar of motor vehicles or a deputy registrar or, if possible, whether the individual has applied, or is likely to apply, for such a license, endorsement, or permit.

If the agency determines that the individual holds, has applied for, or is likely to apply for, such a license, endorsement, or permit, it shall send to the individual the notice specified in division (C)(2) of this section. The agency also may send a notice to the registrar of motor vehicles that gives the name and social security number or other identifying number of the individual and states that a court or agency has determined the individual to be in default under a child support order.

(b) If an individual required to pay support under a child support order on or after the date specified in division (A) of this section fails, after receiving appropriate notice, to comply with a subpoena or warrant issued by the court or a child support enforcement agency with respect to a proceeding to enforce a child support order, the agency administering the child support order may determine whether the individual holds a driver's or commercial driver's license, motorcycle operator's license or endorsement, temporary instruction permit, or commercial driver's temporary instruction permit issued by the registrar of motor vehicles or a deputy registrar or, if possible, whether the individual has applied, or is likely to apply, for such a license, endorsement, or permit. If the agency determines that the individual holds, has applied for, or is likely to apply for, such a license, endorsement, or permit, it shall send the individual the notice specified in division (C)(2) of this section. The agency may also send a notice to the registrar of motor vehicles that gives the name and social security number or other identifying number of the individual and states that the individual has failed to comply with a warrant or subpoena issued by a court or child support enforcement agency with respect to a proceeding to enforce a child support order.

(2) Notice shall be sent to the individual described in division (C)(1) of this section in compliance with division (G)(1) of section 3113.21 of the Revised Code. The notice shall specify that a court or agency has determined the individual to be in default under a child support order or that the individual is an obligor under a child support order who has failed to comply with a subpoena or warrant issued by a court or agency with respect to a proceeding to enforce a child support order, that a notice containing the individual's name and social security number or other identification number may be sent under division (C)(1) of this section to the registrar, and that, if the registrar receives that notice and determines that the individual is the individual named in that notice and the registrar has not received notice under division (C)(3) of this section, all of the following will occur:

(a) The registrar and all deputy registrars will be prohibited from issuing to the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or

commercial driver's temporary instruction permit;

(b) The registrar and all deputy registrars will be prohibited from renewing for the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or commercial driver's temporary instruction permit;

(c) If the individual holds a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit, it will be suspended if the registrar determines that the individual is the individual named in the notice sent pursuant to division (C)(1) of this section;

(d) If the individual is the individual named in the notice the individual will not be issued or have renewed any license, endorsement, or permit, and no suspension will be lifted with respect to any license, endorsement, or permit listed in division (C)(2) of this section until the registrar receives a notice under division (C)(3) of this section.

(3)(a) An agency that sent a notice under division (C)(1)(a) of this section shall send to the registrar a notice that the individual is not in default under a child support order if it determines that the individual is not in default or any of the following occurs:

(i) The individual makes full payment to the division of child support or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency of the arrearage that was the basis for the court or agency determination that the individual was in default;

(ii) An appropriate withholding or deduction notice or other appropriate order has been issued pursuant to section 3113.21 of the ~~revised code~~ Revised Code to collect current support and any arrearage due under the child support order that was in default and the individual is complying with the notice or order;

(iii) A new child support order has been issued or the child support order that was in default has been modified as provided under sections 3113.21 to 3113.219 of the Revised Code to collect current support and any arrearage due under the child support order that was in default and the individual is complying with the new or modified child support order.

The agency shall send the notice under this division not later than seven days after it determines the individual is not in default or that any of the circumstances specified in division (C)(3)(a) of this section has occurred.

(b) An agency that sent a notice under division (C)(1)(b) of this section shall send to the registrar a notice that the individual is no longer out of compliance if the court or agency that issued the warrant or subpoena removes the warrant or determines that the individual has complied with the

subpoena.

The agency shall send the notice under this division not later than seven days after the agency determines that either of the circumstances specified in division (C)(3)(b) has occurred.

(4)(a) On receipt of a notice pursuant to division (C)(1) of this section, the registrar shall determine whether the individual named in the notice holds or has applied for a driver's license or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit. If the registrar determines that the individual holds or has applied for a license, permit, or endorsement and the individual is the individual named in the notice and does not receive a notice pursuant to division (C)(3) of this section, the registrar immediately shall provide notice of the determination to each deputy registrar. The registrar or a deputy registrar may not issue to the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit and may not renew for the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or commercial driver's temporary instruction permit. The registrar or a deputy registrar also shall suspend a license, permit, or endorsement held by the individual.

(b) The registrar shall maintain a list of names of individuals identified in notices sent to the registrar pursuant to division (C)(1) of this section that do not hold a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit. The registrar shall update the list quarterly and provide each deputy registrar with a copy. On receipt of an application for such a license, permit, or endorsement from an individual who appears on the list, a deputy registrar shall notify the registrar. On receipt of an application for such a license, permit, or endorsement from such an individual or on receipt of a notice from a deputy registrar pursuant to division (C)(4)(b) of this section, the registrar shall proceed in accordance with division (C)(4)(a) of this section.

(c) Not later than seven days after receipt of a notice pursuant to division (C)(3) of this section, the registrar shall notify each deputy registrar of the notice. The registrar and each deputy registrar shall then, if the individual otherwise is eligible for the license, permit, or endorsement and wants the license, permit, or endorsement, issue a license, permit, or endorsement to, or renew a license, permit, or endorsement of, the individual, or, if the individual's license, permit, or endorsement was

suspended pursuant to division (C)(4)(a) of this section, remove the suspension. The registrar or a deputy registrar may charge a fee of not more than twenty-five dollars for issuing or renewing or removing the suspension of a license pursuant to this division. The fees collected by the registrar pursuant to this section shall be paid into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

(d) Notwithstanding section 119.06 of the Revised Code, the registrar shall not hold any hearing in connection with an order refusing to issue or renew a license, permit, or endorsement for, or suspending a license, permit, or endorsement of, an individual pursuant to this section.

(D) The ~~department~~ director of ~~human~~ job and family services services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 2301.375. (A) As used in this section, "recreational license" means any license, permit, or stamp issued pursuant to section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the Revised Code.

(B) If a court or child support enforcement agency makes a final and enforceable determination pursuant to division (B) of section 3113.21 of the Revised Code that an individual is in default under a child support order, the agency administering the child support order may determine whether the individual holds a recreational license or, if possible, whether the individual has applied for, or is likely to apply for, such a license. If the agency determines that the individual holds, has applied for, or is likely to apply for, such a license, it shall follow procedures that are substantively the same as those set forth in divisions (B) to (D) of section 2301.373 of the Revised Code and the division of wildlife shall follow procedures that are substantively the same as those set forth in division (E) of section 2301.373 of the Revised Code with respect to the license if both of the following apply:

(1) The division of wildlife has implemented a computer system that maintains license numbers for licenses issued by the division, the names of persons to whom licenses are issued, and the social security numbers of persons to whom licenses are issued;

(2) The division has established safeguards that eliminate the risk that social security numbers provided to the division for the purpose of child support enforcement may be used for purposes other than those permitted by federal law.

(C) The ~~department~~ director of ~~human~~ job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 2301.43. (A) If a court or a child support enforcement agency makes a final and enforceable determination pursuant to division (B) of section 3113.21 of the Revised Code that an obligor is in default under a support order, the agency administering the support order may assert a lien on real and personal property of the obligor located in the state.

(B)(1) The amount of the arrearage due under the support order determined to be in default pursuant to division (B) of section 3113.21 of the Revised Code and any amounts due for current support that become an arrearage after the date the default determination was made, shall be a lien against all personal property, including after-acquired property, of the obligor that is situated in this state. The lien may be filed with the county recorder in each county of the state in which the personal property is located. The amount of the arrearage due under the support order determined to be in default pursuant to division (B) of section 3113.21 of the Revised Code and any amounts due for current support that become an arrearage after the date the default determination was made, shall be a lien against real property, including after-acquired property, of the obligor after the lien is filed with a county recorder of this state in which the real property is located. A lien may be filed with the county recorder in each county of the state in which real property of the obligor is located. In recording the lien, if registered land is involved, the county recorder shall take all necessary action required by Chapter 5309. of the Revised Code. The county recorder may be compensated for liens filed under this section pursuant to the development of unit costs that are reimbursed under the provider contract entered into pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 651, as amended.

(2) On receiving a copy of a lien filed in another state that is similar to a lien described in division (B)(1) of this section, a copy of the order for child support that is the basis of the lien, and a copy of the court or administrative determination finding the obligor to be in default under the child support order, the division of child support in the department of ~~human~~ job and family services shall examine the lien and the other documents and determine whether the lien is in compliance with federal child support law and regulations. If the division determines that the lien is in compliance, the division shall determine the counties of this state in which is located real or personal property of the obligor that may be subjected to the lien. On making the determination, the division shall send a copy of the lien to the child support enforcement agency of the county in which the obligor's real or personal property is located. The agency shall file the lien with the county recorder of the county in which the agency is located. In recording the lien,

if registered land is involved, the county recorder shall take all necessary action required by Chapter 5309. of the Revised Code. Once filed, the lien shall be against all real and personal property, including after-acquired property, of the obligor that is situated in that county. Every court, the division, and each child support enforcement agency shall give full faith and credit to a lien established by an authorized agency of another state that is of the type described in division (B)(1) of this section.

(C) The lien filed with the county recorder shall be effective until the county recorder discharges the lien. The county recorder shall discharge the lien within five days after the agency files a notice pursuant to division (D) of this section requesting that the lien be discharged.

(D) The agency shall file a notice requesting that the county recorder discharge the lien if one of the following applies:

(1) The lien is satisfied through an action pursuant to section 2301.45 of the Revised Code;

(2) The obligor makes full payment of the arrearage to the division of child support in the department of ~~human~~ job and family services or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency that is the basis of the lien;

(3) An appropriate withholding or deduction notice or other appropriate order has been issued pursuant to section 3113.21 of the Revised Code to collect current support and any arrearage due under the support order that was in default and the obligor is complying with the notice or order;

(4) A new support order has been issued or the support order that was in default has been modified as provided under sections 3113.21 to 3113.219 of the Revised Code to collect current support and any arrearage due under the support order that was in default and the obligor is complying with the new or modified support order;

(5) The agency releases the lien pursuant to section 2301.46 of the Revised Code.

(E) A lien imposed pursuant to this section shall have priority over liens, mortgages, security interests, or other types of encumbrances that are associated with the real and personal property subject to the lien imposed by this section and that arise after the date the lien is filed pursuant to this section. A lien imposed pursuant to this section shall not have priority over liens, mortgages, security interests, or other types of encumbrances associated with the real and personal property subject to the lien imposed by this section that arose on or before the date the lien was filed pursuant to this section.

Sec. 2305.26. (A) An action by the state or an agency or political

subdivision of the state to enforce a lien upon real or personal property created under and by virtue of sections 1901.21, 2505.13, 2937.25, 4123.76, 4123.78, 4141.23, 4509.60, 5719.04, 5733.18, 5735.03, and 5749.02 of the Revised Code shall be brought within six years from the date when the lien or notice of continuation of the lien has been filed in the office of the county recorder.

(B) A notice of continuation of lien may be filed in the office of the county recorder within six months prior to the expiration of the six-year period following the original filing of the lien or the filing of the notice of continuation of the lien as specified in division (A) of this section. The notice must identify the original notice of lien and state that the original lien is still effective. Upon timely filing of a notice of continuation of lien, the effectiveness of the original lien is continued for six years after the last date on which the lien was effective, whereupon it lapses, unless another notice of continuation of lien is filed prior to the lapse. Succeeding notices of continuation of lien may be filed in the same manner to continue the effectiveness of the original lien.

(C) The recorder shall mark each notice of continuation of lien with a consecutive file number and with the date of filing and shall hold the notice open for public inspection. In addition, the recorder shall index the notices according to the names of the person against whom they are effective, and shall note in the index the file numbers of the notices. Except in cases of liens arising under section 5719.04 of the Revised Code, the recorder shall mark the record of the original lien "continued" and note thereon the date on which the notice of continuation of lien was filed. The recorder may remove a lapsed lien or lapsed notice of continuation of lien from the file and destroy it. For any services performed under this section, the county recorder shall charge and collect the fees set forth in section 317.32 of the Revised Code.

(D) A notice of continuation of lien must be signed and filed by the clerk of the court or the magistrate in cases of liens arising under sections 1901.21, 2505.13, and 2937.25 of the Revised Code, by the industrial commission in cases of liens arising under sections 4123.76 and 4123.78 of the Revised Code, by the ~~administrator~~ director of ~~the bureau of employment~~ job and family services in cases of liens arising under section 4141.23 of the Revised Code, by the registrar of motor vehicles in cases of liens arising under section 4509.60 of the Revised Code, by the county auditor in cases of liens arising under section 5719.04 of the Revised Code, and by the tax commissioner in cases of liens arising under sections 5733.18, 5735.03, and 5749.02 of the Revised Code.

Sec. 2317.56. (A) As used in this section:

(1) "Medical emergency" means a condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, creates an immediate threat of serious risk to the life or physical health of the woman from the continuation of the pregnancy necessitating the immediate performance or inducement of an abortion.

(2) "Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion.

(3) "Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the physician informs a pregnant woman pursuant to division (B)(1)(b) of this section.

(B) Except when there is a medical emergency or medical necessity, an abortion shall be performed or induced only if all of the following conditions are satisfied:

(1) At least twenty-four hours prior to the performance or inducement of the abortion, a physician meets with the pregnant woman in person in an individual, private setting and gives her an adequate opportunity to ask questions about the abortion that will be performed or induced. At this meeting, the physician shall inform the pregnant woman, verbally or, if she is hearing impaired, by other means of communication, of all of the following:

(a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure;

(b) The probable gestational age of the embryo or fetus;

(c) The medical risks associated with the pregnant woman carrying the pregnancy to term.

The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion.

(2) At least twenty-four hours prior to the performance or inducement of the abortion, one or more physicians or one or more agents of one or more physicians do each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing:

(a) Inform the pregnant woman of the name of the physician who is

scheduled to perform or induce the abortion;

(b) Give the pregnant woman copies of the published materials described in division (C) of this section;

(c) Inform the pregnant woman that the materials given pursuant to division (B)(2)(b) of this section are provided by the state and that they describe the embryo or fetus and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be disassociated from the materials and may choose to comment or not comment on the materials.

(3) Prior to the performance or inducement of the abortion, the pregnant woman signs a form consenting to the abortion and certifies both of the following on that form:

(a) She has received the information and materials described in divisions (B)(1) and (2) of this section, and her questions about the abortion that will be performed or induced have been answered in a satisfactory manner.

(b) She consents to the particular abortion voluntarily, knowingly, intelligently, and without coercion by any person, and she is not under the influence of any drug of abuse or alcohol.

(4) Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed form on which she consents to the abortion and that includes the certification required by division (B)(3) of this section.

(C) The department of health shall cause to be published in English and in Spanish, in a typeface large enough to be clearly legible, and in an easily comprehensible format, the following materials:

(1) Materials that inform the pregnant woman about family planning information, of publicly funded agencies that are available to assist in family planning, and of public and private agencies and services that are available to assist her through the pregnancy, upon childbirth, and while the child is dependent, including, but not limited to, adoption agencies. The materials shall be geographically indexed; include a comprehensive list of the available agencies, a description of the services offered by the agencies, and the telephone numbers and addresses of the agencies; and inform the pregnant woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in division (C)(1) of this section are comprehensive and

do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this division.

(2) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two-week gestational increments for the first sixteen weeks of pregnancy and at four-week gestational increments from the seventeenth week of pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The department shall cause these materials to be published only after it consults with the Ohio state medical association and the Ohio section of the American college of obstetricians and gynecologists relative to the probable anatomical and physiological characteristics of a zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. If the materials use a pictorial, photographic, or other depiction to provide information regarding the zygote, blastocyte, embryo, or fetus, the materials shall include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment.

(D) Upon the submission of a request to the department of health by any person, hospital, physician, or medical facility for one or more copies of the materials published in accordance with division (C) of this section, the department shall make the requested number of copies of the materials available to the person, hospital, physician, or medical facility that requested the copies.

(E) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in division (B) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

(F) If the conditions specified in division (B) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(G) The performance or inducement of an abortion without the prior satisfaction of the conditions specified in division (B) of this section does not constitute, and shall not be construed as constituting, a violation of division (A) of section 2919.12 of the Revised Code. The failure of a physician to satisfy the conditions of division (B) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of both of the following:

(1) A civil action for compensatory and exemplary damages as described in division (H) of this section;

(2) Disciplinary action under section 4731.22 of the Revised Code.

(H)(1) Subject to divisions (H)(2) and (3) of this section, any physician who performs or induces an abortion with actual knowledge that the conditions specified in division (B) of this section have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied is liable in compensatory and exemplary damages in a civil action to any person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as a result of the failure to satisfy those conditions. In the civil action, the court additionally may enter any injunctive or other equitable relief that it considers appropriate.

(2) The following shall be affirmative defenses in a civil action authorized by division (H)(1) of this section:

(a) The physician performed or induced the abortion under the circumstances described in division (E) of this section.

(b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section.

(c) The physician or an agent of the physician requested copies of the materials published in accordance with division (C) of this section from the department of health, but the physician was not able to give a pregnant woman copies of the materials pursuant to division (B)(2) of this section and to obtain a certification as described in divisions (B)(3) and (4) of this section because the department failed to make the requested number of copies available to the physician or agent in accordance with division (D) of this section.

(3) An employer or other principal is not liable in damages in a civil action authorized by division (H)(1) of this section on the basis of the doctrine of respondeat superior unless either of the following applies:

(a) The employer or other principal had actual knowledge or, by the exercise of reasonable diligence, should have known that an employee or

agent performed or induced an abortion with actual knowledge that the conditions specified in division (B) of this section had not been satisfied or with a heedless indifference as to whether those conditions had been satisfied.

(b) The employer or other principal negligently failed to secure the compliance of an employee or agent with division (B) of this section.

(4) Notwithstanding division (E) of section 2919.12 of the Revised Code, the civil action authorized by division (H)(1) of this section shall be the exclusive civil remedy for persons, or the representatives of estates of persons, who allegedly sustain injury, death, or loss to person or property as a result of a failure to satisfy the conditions specified in division (B) of this section.

(I) The department of ~~human~~ job and family services shall prepare and conduct a public information program to inform women of all available governmental programs and agencies that provide services or assistance for family planning, prenatal care, child care, or alternatives to abortion.

Sec. 2705.031. (A) As used in this section, "Title IV-D case" has the same meaning as in section 3113.21 of the Revised Code.

(B)(1) Any party who has a legal claim to any support ordered for a child, spouse, or former spouse may initiate a contempt action for failure to pay the support. In Title IV-D cases, the contempt action for failure to pay support also may be initiated by an attorney retained by the party who has the legal claim, the prosecuting attorney, or an attorney of the department of ~~human~~ job and family services or the child support enforcement agency.

(2) Any person who is granted visitation rights under a visitation order or decree issued pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code or pursuant to any other provision of the Revised Code, or any other person who is subject to any visitation order or decree, may initiate a contempt action for a failure to comply with, or an interference with, the order or decree.

(C) In any contempt action initiated pursuant to division (B) of this section, the accused shall appear upon the summons and order to appear that is issued by the court. The summons shall include all of the following:

(1) Notice that failure to appear may result in the issuance of an order of arrest, and in cases involving alleged failure to pay support, the issuance of an order for the payment of support by withholding an amount from the personal earnings of the accused or by withholding or deducting an amount from some other asset of the accused;

(2) Notice that the accused has a right to counsel, and that if ~~the accused believes that he is~~ indigent, the accused must apply for a public defender or

court appointed counsel within three business days after receipt of the summons;

(3) Notice that the court may refuse to grant a continuance at the time of the hearing for the purpose of the accused obtaining counsel, if the accused fails to make a good faith effort to retain counsel or to obtain a public defender;

(4) Notice of the potential penalties that could be imposed upon the accused, if the accused is found guilty of contempt for failure to pay support or for a failure to comply with, or an interference with, a visitation order or decree.

(D) If the accused is served as required by the Rules of Civil Procedure or by any special statutory proceedings that are relevant to the case, the court may order the attachment of the person of the accused upon failure to appear as ordered by the court.

(E) The imposition of any penalty for contempt under section 2705.05 of the Revised Code shall not eliminate any obligation of the accused to pay any past, present, or future support obligation or any obligation of the accused to comply with or refrain from interfering with the visitation order or decree. The court shall have jurisdiction to make a finding of contempt for the failure to pay support and to impose the penalties set forth in section 2705.05 of the Revised Code in all cases in which past due support is at issue even if the duty to pay support has terminated, and shall have jurisdiction to make a finding of contempt for a failure to comply with, or an interference with, a visitation order or decree and to impose the penalties set forth in section 2705.05 of the Revised Code in all cases in which the failure or interference is at issue even if the visitation order or decree no longer is in effect.

Sec. 2715.041. (A) Upon the filing of a motion for an order of attachment pursuant to section 2715.03 of the Revised Code, the plaintiff shall file with the clerk of the court a praecipe instructing the clerk to issue to the defendant against whom the motion was filed a notice of the proceeding. Upon receipt of the praecipe, the clerk shall issue the notice which shall be in substantially the following form:

"(Name and Address of Court)
Case No.....

(Case Caption)

NOTICE

You are hereby notified that (name and address of plaintiff), the plaintiff in this proceeding, has applied to this court for the attachment of property in your possession. The basis for this application is indicated in the documents

that are enclosed with this notice.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed on by a creditor are:

(1) Workers' compensation benefits;

(2) Unemployment compensation payments;

(3) Cash assistance payments under the Ohio works first program;

(4) Disability assistance administered by the Ohio department of ~~human~~ job and family services;

(5) Social security benefits;

(6) Supplemental security income (S.S.I.);

(7) Veteran's benefits;

(8) Black lung benefits;

(9) Certain pensions.

Additionally, your wages never can be taken to pay a debt until a judgment has been obtained against you. There may be other benefits not included in this list that apply in your case.

If you dispute the plaintiff's claim and believe that you are entitled to retain possession of the property because it is exempt or for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form appearing below, or in a substantially similar form, and delivering the request for the hearing to this court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form, but you are not required to do so. If you do state your reasons for disputing the claim in the space provided on the form, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing.

If you request a hearing, it will be conducted in ..... courtroom ....., (address of court), at .....m. on ....., 19.....

You may avoid having a hearing but retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of $.....

If you do not request a hearing or file a bond on or before the end of the fifth business day after you receive this notice, the court, without further notice to you, may order a law enforcement officer or bailiff to take possession of the property. Notice of the dates, times, places, and purposes

of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

.....
Clerk of Court
Date:
....."

(B) Along with the notice required by division (A) of this section, the clerk of the court also shall deliver to the defendant, in accordance with division (C) of this section, a request for hearing form together with a postage-paid, self-addressed envelope or a request for hearing form on a postage-paid, self-addressed postcard. The request for hearing shall be in substantially the following form:

"(Name and Address of Court)

Case Number ..... Date .....

REQUEST FOR HEARING

I dispute the claim for the attachment of property in the above case and request that a hearing in this matter be held at the time and place set forth in the notice that I previously received.

I dispute the claim for the following reasons:
(Optional)

.....
(Name of Defendant)
.....
(Signature)
.....
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING."

(C) The notice required by division (A) of this section shall be served on the defendant in duplicate not less than seven business days prior to the date on which the hearing is scheduled, together with a copy of the complaint and summons, if not previously served, and a copy of the motion for the attachment of property and the affidavit attached to the motion, in the same manner as provided in the Rules of Civil Procedure for the service of process. Service may be effected by publication as provided in the Rules of

Civil Procedure except that the number of weeks for publication may be reduced by the court to the extent appropriate.

Sec. 2715.045. (A) Upon the filing of a motion for attachment, a court may issue an order of attachment without issuing notice to the defendant against whom the motion was filed and without conducting a hearing if the court finds that there is probable cause to support the motion and that the plaintiff that filed the motion for attachment will suffer irreparable injury if the order is delayed until the defendant against whom the motion has been filed has been given the opportunity for a hearing. The court's findings shall be based upon the motion and affidavit filed pursuant to section 2715.03 of the Revised Code and any other relevant evidence that it may wish to consider.

(B) A finding by the court that the plaintiff will suffer irreparable injury may be made only if the court finds the existence of either of the following circumstances:

(1) There is present danger that the property will be immediately disposed of, concealed, or placed beyond the jurisdiction of the court.

(2) The value of the property will be impaired substantially if the issuance of an order of attachment is delayed.

(C)(1) Upon the issuance by a court of an order of attachment without notice and hearing pursuant to this section, the plaintiff shall file the order with the clerk of the court, together with a praecipe instructing the clerk to issue to the defendant against whom the order was issued a copy of the motion, affidavit, and order of attachment, and a notice that an order of attachment was issued and that the defendant has a right to a hearing on the matter. The clerk then immediately shall serve upon the defendant, in the manner provided by the Rules of Civil Procedure for service of process, a copy of the complaint and summons, if not previously served, a copy of the motion, affidavit, and order of attachment, and the following notice:

"(Name and Address of the Court)

(Case Caption) Case No.

.....

NOTICE

You are hereby notified that this court has issued an order in the above case in favor of (name and address of plaintiff), the plaintiff in this proceeding, directing that property now in your possession, be taken from you. This order was issued on the basis of the plaintiff's claim against you as indicated in the documents that are enclosed with this notice.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the

benefits that cannot be attached or executed on by a creditor are:

(1) Workers' compensation benefits;

(2) Unemployment compensation payments;

(3) Cash assistance payments under the Ohio works first program;

(4) Disability assistance administered by the Ohio department of ~~human~~ job and family services;

(5) Social security benefits;

(6) Supplemental security income (S.S.I.);

(7) Veteran's benefits;

(8) Black lung benefits;

(9) Certain pensions.

Additionally, your wages never can be taken to pay a debt until a judgment has been obtained against you. There may be other benefits not included in this list that apply in your case.

If you dispute the plaintiff's claim and believe that you are entitled to possession of the property because it is exempt or for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing. If you request a hearing, it will be held within three business days after delivery of your request for hearing and notice of the date, time, and place of the hearing will be sent to you.

You may avoid a hearing but recover and retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of $.....

If you do not request a hearing or file a bond before the end of the fifth business day after you receive this notice, possession of the property will be withheld from you during the pendency of the action. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

.....

Clerk of the Court

.....
Date"

(2) Along with the notice required by division (C)(1) of this section, the clerk of the court also shall deliver to the defendant a request for hearing form together with a postage-paid, self-addressed envelope or a request for hearing form on a postage-paid, self-addressed postcard. The request for hearing shall be in substantially the following form:

"(Name and Address of Court)

Case Number ..... Date .....

REQUEST FOR HEARING

I dispute the claim for possession of property in the above case and request that a hearing in this matter be held within three business days after delivery of this request to the court.

I dispute the claim for the following reasons:
(Optional)

.....
(Name of Defendant)

.....
(Signature)

.....
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION."

(D) The defendant may receive a hearing in accordance with section 2715.043 of the Revised Code by delivering a written request for hearing to the court within five business days after receipt of the notice provided pursuant to division (C) of this section. The request may set forth the defendant's reasons for disputing the plaintiff's claim for possession of property. However, neither the defendant's inclusion of nor failure to include such reasons upon the request constitutes a waiver of any defense of the defendant or affects the defendant's right to produce evidence at any hearing or at the trial of the action. If the request is made by the defendant, the court shall schedule a hearing within three business days after the request is made, send notice to the parties of the date, time, and place of the hearing, and hold the hearing accordingly.

(E) If, after hearing, the court finds that there is not probable cause to support the motion, it shall order that the property be redelivered to the defendant without the condition of bond.

Sec. 2716.13. (A) Upon the filing of a proceeding in garnishment of property, other than personal earnings, under section 2716.11 of the Revised Code, the court shall cause the matter to be set for hearing within twelve days after that filing.

(B) Upon the scheduling of a hearing relative to a proceeding in garnishment of property, other than personal earnings, under division (A) of this section, the clerk of the court immediately shall issue to the garnishee three copies of the order of garnishment of property, other than personal earnings, and of a written notice that the garnishee answer as provided in section 2716.21 of the Revised Code and the garnishee's fee required by section 2716.12 of the Revised Code. The copies of the order and of the notice shall be served upon the garnishee in the same manner as a summons is served. The copies of the order and of the notice shall not be served later than seven days prior to the date on which the hearing is scheduled. The order shall bind the property, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service.

The order of garnishment of property, other than personal earnings, and notice to answer shall be in substantially the following form:

"ORDER AND NOTICE OF GARNISHMENT
OF PROPERTY OTHER THAN PERSONAL EARNINGS
AND ANSWER OF GARNISHEE

Docket No. ..... Case No. ..... In the ..... Court ....., Ohio

The State of Ohio
County of ....., ss
....., Judgment Creditor
vs.
....., Judgment Debtor

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

To: ....., Garnishee

The judgment creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this Court stating that you have money, property, or credits, other than personal earnings, in your hands or under your control that belong to the judgment debtor, and that some of the money, property, or credits may not be exempt from garnishment under the laws of the State of Ohio or the laws of the United States.

You are therefore ordered to complete the "ANSWER OF

GARNISHEE" in section (B) of this form. Return one completed and signed copy of this form to the clerk of this court together with the amount determined in accordance with the "ANSWER OF GARNISHEE" by the following date on which a hearing is tentatively scheduled relative to this order of garnishment: ..... Deliver one completed and signed copy of this form to the judgment debtor prior to that date. Keep the other completed and signed copy of this form for your files.

The total probable amount now due on this judgment is $..... The total probable amount now due includes the unpaid portion of the judgment in favor of the judgment creditor, which is $.....; interest on that judgment and, if applicable, prejudgment interest relative to that judgment at the rate of .....% per annum payable until that judgment is satisfied in full; and court costs in the amount of $.....

You also are ordered to hold safely anything of value that belongs to the judgment debtor and that has to be paid to the court, as determined under the "ANSWER OF GARNISHEE" in section (B) of this form, but that is of such a nature that it cannot be so delivered, until further order of the court.

Witness my hand and the seal of this court this ..... day of ....., ...

..... Judge

SECTION B. ANSWER OF GARNISHEE

Now comes ....., the garnishee, who says:

1. That the garnishee has money, property, or credits, other than personal earnings, of the judgment debtor under the garnishee's control and in the garnishee's possession.

.....	.....	.....
yes	no	if yes, amount

2. That property is described as:

3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay the amount of line 1 to the clerk of this court.

4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of the court, indicate that by placing an "X" in this space: ..... Do not dispose of that money, property, or credits or give them to anyone else until further order of

the court.

6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true. .....
(Print Name of Garnishee) ..... (Print Name and Title of Person Who Completed Form)

Signed .....
(Signature of Person Completing Form)

Dated this ..... day of ....., ..."

Section A of the form described in this division shall be completed before service. Section B of the form shall be completed by the garnishee, and the garnishee shall file one completed and signed copy of the form with the clerk of the court as the garnishee's answer. The garnishee may keep one completed and signed copy of the form and shall deliver the other completed and signed copy of the form to the judgment debtor.

If several affidavits seeking orders of garnishment of property, other than personal earnings, are filed against the same judgment debtor in accordance with section 2716.11 of the Revised Code, the court involved shall issue the requested orders in the same order in which the clerk received the associated affidavits.

(C)(1) At the time of the filing of a proceeding in garnishment of property, other than personal earnings, under section 2716.11 of the Revised Code, the judgment creditor also shall file with the clerk of the court a praecipe instructing the clerk to issue to the judgment debtor a notice to the judgment debtor form and a request for hearing form. Upon receipt of the praecipe and the scheduling of a hearing relative to an action in garnishment of property, other than personal earnings, under division (A) of this section, the clerk of the court immediately shall serve upon the judgment debtor, in accordance with division (D) of this section, two copies of the notice to the judgment debtor form and of the request for hearing form. The copies of the notice to the judgment debtor form and of the request for hearing form shall not be served later than seven days prior to the date on which the hearing is scheduled.

(a) The notice to the judgment debtor that must be served upon the judgment debtor shall be in substantially the following form:

"(Name and Address of the Court)

(Case Caption) .....
Case No. .....

NOTICE TO THE JUDGMENT DEBTOR

You are hereby notified that this court has issued an order in the above

ase in favor of (name and address of judgment creditor), the judgment creditor in this proceeding, directing that some of your money, property, or credits, other than personal earnings, now in the possession of (name and address of garnishee), the garnishee in this proceeding, be used to satisfy your debt to the judgment creditor. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in (name of court) in (case number) on (date). Upon your receipt of this notice, you are prohibited from removing or attempting to remove the money, property, or credits until expressly permitted by the court. Any violation of this prohibition subjects you to punishment for contempt of court.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed upon by a creditor are the following:

(1) Workers' compensation benefits;

(2) Unemployment compensation payments;

(3) Cash assistance payments under the Ohio works first program;

(4) Disability assistance administered by the Ohio department of ~~human~~ job and family services;

(5) Social security benefits;

(6) Supplemental security income (S.S.I.);

(7) Veteran's benefits;

(8) Black lung benefits;

(9) Certain pensions.

There may be other benefits not included in the above list that apply in your case.

If you dispute the judgment creditor's right to garnish your property and believe that the judgment creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the garnishee because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your property in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court,

and you can state your reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING. If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted in ..... courtroom ....., (address of court), at ..... m. on ....., ... You may request the court to conduct the hearing before this date by indicating your request in the space provided on the form; the court then will send you notice of any change in the date, time, or place of the hearing. If you do not request a hearing by delivering your request for a hearing no later than the end of the fifth business day after you receive this notice, some of your money, property, or credits, other than personal earnings, will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association.

.....
Clerk of the Court

.....
Date"

(b) The request for hearing form that must be served upon the judgment debtor shall have attached to it a postage-paid, self-addressed envelope or shall be on a postage-paid self-addressed postcard, and shall be in substantially the following form:

"(Name and Address of Court)

Case Number..... Date.....

REQUEST FOR HEARING

I dispute the judgment creditor's right to garnish my money, property, or credits, other than personal earnings, in the above case and request that a hearing in this matter be held

(Insert "on" or "earlier than")

the date and time set forth in the document entitled "NOTICE TO THE JUDGMENT DEBTOR" that I received with this request form.

I dispute the judgment creditor's right to garnish my property for the following reasons:

(Optional)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.

.....
(Name of Judgment Debtor)
.....
(Signature)
.....
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY, PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT CREDITOR'S NAME)."

(2) The judgment debtor may receive a hearing in accordance with this division by delivering a written request for hearing to the court within five business days after receipt of the notice provided pursuant to division (C)(1) of this section. The request may set forth the judgment debtor's reasons for disputing the judgment creditor's right to garnish the money, property, or credits, other than personal earnings; however, neither the judgment debtor's inclusion of nor failure to include those reasons upon the request constitutes a waiver of any defense of the judgment debtor or affects the judgment debtor's right to produce evidence at the hearing. If the request is made by the judgment debtor within the prescribed time, the hearing shall be limited to a consideration of the amount of money, property, or credits, other than personal earnings, of the judgment debtor in the hands of the garnishee, if any, that can be used to satisfy all or part of the debt owed by the judgment debtor to the judgment creditor. If a request for a hearing is not received by the court within the prescribed time, the hearing scheduled pursuant to division (A) of this section shall be canceled unless the court grants the judgment debtor a continuance in accordance with division (C)(3) of this section.

(3) If the judgment debtor does not request a hearing in the action within the prescribed time pursuant to division (C)(2) of this section, the court nevertheless may grant a continuance of the scheduled hearing if the judgment debtor, prior to the time at which the hearing was scheduled, as

indicated on the notice to the judgment debtor required by division (C)(1) of this section, establishes a reasonable justification for failure to request the hearing within the prescribed time. If the court grants a continuance of the hearing, it shall cause the matter to be set for hearing as soon as practicable thereafter. The continued hearing shall be conducted in accordance with division (C)(2) of this section.

(4) The court may conduct the hearing on the matter prior to the time at which the hearing was scheduled, as indicated on the notice to the judgment debtor required by division (C)(1) of this section, upon the request of the judgment debtor. The parties shall be sent notice, by the clerk of the court, by regular mail, of any change in the date, time, or place of the hearing.

(5) If the scheduled hearing is canceled and no continuance is granted, the court shall issue an order to the garnishee to pay all or some of the money, property, or credits, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service of the notice and order into court if they have not already been paid to the court. This order shall be based on the answer of the garnishee filed pursuant to this section. If the scheduled hearing is conducted or if it is continued and conducted, the court shall determine at the hearing the amount of the money, property, or credits, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service of the notice and order, if any, that can be used to satisfy all or part of the debt owed by the judgment debtor to the judgment creditor, and issue an order, accordingly, to the garnishee to pay that amount into court if it has not already been paid to the court.

(D) The notice to the judgment debtor form and the request for hearing form described in division (C) of this section shall be sent by the clerk by ordinary or regular mail service unless the judgment creditor requests that service be made in accordance with the Rules of Civil Procedure, in which case the forms shall be served in accordance with the Rules of Civil Procedure. Any court of common pleas that issues an order of garnishment of property, other than personal earnings, under this section has jurisdiction to serve process pursuant to this section upon a garnishee who does not reside within the jurisdiction of the court. Any county court or municipal court that issues an order of garnishment of property, other than personal earnings, under this section has jurisdiction to serve process pursuant to this section upon a garnishee who does not reside within the jurisdiction of the court.

Sec. 2744.05. Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, in an action against a political

subdivision to recover damages for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function:

(A) Punitive or exemplary damages shall not be awarded.

(B)(1) If a claimant receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against a political subdivision recovered by that claimant. No insurer or other person is entitled to bring an action under a subrogation provision in an insurance or other contract against a political subdivision with respect to those benefits. The amount of the benefits shall be deducted from an award against a political subdivision under division (B)(1) of this section regardless of whether the claimant may be under an obligation to pay back the benefits upon recovery, in whole or in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of ~~human~~ job and family services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under Chapter 5107., 5111., or 5115. of the Revised Code.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages" does not include any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss, and does not include any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the person injured, for mental anguish, or for any other intangible loss.

Sec. 2913.40. (A) As used in this section:

(1) "Statement or representation" means any oral, written, electronic, electronic impulse, or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program.

(2) "Medical assistance program" means the program established by the department of ~~human~~ job and family services to provide medical assistance under section 5111.01 of the Revised Code and the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(3) "Provider" means any person who has signed a provider agreement with the department of ~~human~~ job and family services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program.

(4) "Provider agreement" means an oral or written agreement between the department of ~~human~~ job and family services and a person in which the person agrees to provide goods or services under the medical assistance program.

(5) "Recipient" means any individual who receives goods or services from a provider under the medical assistance program.

(6) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the ~~department~~ director of ~~human~~ job and family services to be kept for the medical assistance program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by section 5111.02 of the Revised Code or by any rules adopted pursuant to that section.

(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by section 5111.02 of the Revised Code or by any rules adopted pursuant to that section, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is

or may be made under the medical assistance program.

(D) No person, having submitted a claim for or provided goods or services under the medical assistance program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medical assistance program:

(1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person;

(2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(E) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of property, services, or funds obtained in violation of this section is five hundred dollars or more and is less than five thousand dollars, medicaid fraud is a felony of the fifth degree. If the value of property, services, or funds obtained in violation of this section is five thousand dollars or more and is less than one hundred thousand dollars, medicaid fraud is a felony of the fourth degree. If the value of the property, services, or funds obtained in violation of this section is one hundred thousand dollars or more, medicaid fraud is a felony of the third degree.

(F) Upon application of the governmental agency, office, or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medical assistance program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, section 5111.03 of the Revised Code, or any other provision of law.

(G) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

Sec. 2949.26. The body of an executed convict shall be returned for burial in any county of the state, to friends who made written request therefor, if made to the warden the day before or on the morning of the execution. The warden may pay the transportation and other funeral

expenses, not to exceed fifty dollars.

If no request is made by such friends therefor, such body shall be disposed of as provided by section 1713.34 of the Revised Code and the rules of the ~~department~~ director of ~~human~~ job and family services.

Sec. 2950.11. (A) As used in this section, "specified geographical notification area" means the geographic area or areas within which the attorney general, by rule adopted under section 2950.13 of the Revised Code, requires the notice described in division (B) of this section to be given to the persons identified in divisions (A)(2) to (8) of this section. If a person is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, and if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense and the court has not subsequently determined pursuant to division (D) of section 2950.09 of the Revised Code that the offender no longer is a sexual predator or the offender has been determined pursuant to division (C)(2) or (E) of section 2950.09 of the Revised Code to be a habitual sex offender and the court has imposed a requirement under that division subjecting the habitual sex offender to this section, the sheriff with whom the offender has most recently registered under section 2950.04 or 2950.05 of the Revised Code, within the period of time specified in division (C) of this section, shall provide a written notice containing the information set forth in division (B) of this section to all of the following persons:

(1) All occupants of residences adjacent to the offender's place of residence that are located within the county served by the sheriff and all additional neighbors of the offender who are within any category that the attorney general by rule adopted under section 2950.13 of the Revised Code requires to be provided the notice and who reside within the county served by the sheriff;

(2) The executive director of the public children services agency~~, as defined in section 2151.011 of the Revised Code,~~ that has jurisdiction within the specified geographical notification area and that is located within the county served by the sheriff;

(3) The superintendent of each board of education of a school district that has schools within the specified geographical notification area and that is located within the county served by the sheriff;

(4) The appointing or hiring officer of each chartered nonpublic school located within the specified geographical notification area and within the county served by the sheriff or of each other school located within the specified geographical notification area and within the county served by the sheriff and that is not operated by a board of education described in division

(A)(3) of this section;

(5) The director, head teacher, elementary principal, or site administrator of each preschool program governed by Chapter 3301. of the Revised Code that is located within the specified geographical notification area and within the county served by the sheriff;

(6) The administrator of each child day-care center or type A family day-care home that is located within the specified geographical notification area and within the county served by the sheriff, and the provider of each certified type B family day-care home that is located within the specified geographical notification area and within the county served by the sheriff. As used in this division, "child day-care center," "type A family day-care home," and "certified type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(7) The president or other chief administrative officer of each institution of higher education, as defined in section 2907.03 of the Revised Code, that is located within the specified geographical notification area and within the county served by the sheriff, and the chief law enforcement officer of the state university law enforcement agency or campus police department established under section 3345.04 or 1713.50 of the Revised Code, if any, that serves that institution;

(8) The sheriff of each county that includes any portion of the specified geographical notification area;

(9) If the offender resides within the county served by the sheriff, the chief of police, marshal, or other chief law enforcement officer of the municipal corporation in which the offender resides or, if the offender resides in an unincorporated area, the constable or chief of the police department or police district police force of the township in which the offender resides.

(B) The notice required under division (A) of this section shall include all of the following information regarding the subject offender:

(1) The offender's name;

(2) The address or addresses at which the offender resides;

(3) The sexually oriented offense of which the offender was convicted or to which the offender pleaded guilty;

(4) A statement that the offender has been adjudicated as being a sexual predator and that, as of the date of the notice, the court has not entered a determination that the offender no longer is a sexual predator, or a statement that the sentencing or reviewing judge has determined that the offender is a habitual sex offender.

(C) If a sheriff with whom an offender registers under section 2950.04

or 2950.05 of the Revised Code is required by division (A) of this section to provide notices regarding an offender and if, pursuant to that requirement, the sheriff provides a notice to a sheriff of one or more other counties in accordance with division (A)(8) of this section, the sheriff of each of the other counties who is provided notice under division (A)(8) of this section shall provide the notices described in divisions (A)(1) to (7) and (A)(9) of this section to each person or entity identified within those divisions that is located within the geographical notification area and within the county served by the sheriff in question.

(D)(1) A sheriff required by division (A) or (C) of this section to provide notices regarding an offender shall provide the notice to the neighbors that is described in division (A)(1) of this section and the notices to law enforcement personnel that are described in divisions (A)(8) and (9) of this section no later than seventy-two hours after the offender registers with the sheriff or, if the sheriff is required by division (C) to provide the notices, no later than seventy-two hours after the sheriff is provided the notice described in division (A)(8) of this section.

A sheriff required by division (A) or (C) of this section to provide notices regarding an offender shall provide the notices to all other specified persons that are described in divisions (A)(2) to (7) of this section not later than seven days after the offender registers with the sheriff, if the sheriff is required by division (C) to provide the notices, no later than seventy-two hours after the sheriff is provided the notice described in division (A)(8) of this section.

(2) If an offender in relation to whom division (A) of this section applies verifies the offender's current residence address with a sheriff pursuant to section 2950.06 of the Revised Code, the sheriff may provide a written notice containing the information set forth in division (B) of this section to the persons identified in divisions (A)(1) to (9) of this section. If a sheriff provides a notice pursuant to this division to the sheriff of one or more other counties in accordance with division (A)(8) of this section, the sheriff of each of the other counties who is provided the notice under division (A)(8) of this section may provide, but is not required to provide, a written notice containing the information set forth in division (B) of this section to the persons identified in divisions (A)(1) to (7) and (A)(9) of this section.

(E) All information that a sheriff possesses regarding a sexual predator or a habitual sex offender that is described in division (B) of this section and that must be provided in a notice required under division (A) or (C) of this section or that may be provided in a notice authorized under division (D)(2) of this section is a public record that is open to inspection under section

149.43 of the Revised Code.

(F) The notification provisions of this section do not apply regarding a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, who has not been adjudicated as being a sexual predator relative to that sexually oriented offense, and who is determined pursuant to division (C)(2) or (E) of section 2950.09 of the Revised Code to be a habitual sex offender unless the sentencing or reviewing court imposes a requirement in the offender's sentence and in the judgment of conviction that contains the sentence, or imposes a requirement as described in division (C)(2) of section 2950.09 of the Revised Code, that subjects the offender to the provisions of this section.

(G) The department of ~~human~~ job and family services shall compile, maintain, and update in January and July of each year, a list of all agencies, centers, or homes of a type described in division (A)(2) or (6) of this section that contains the name of each agency, center, or home of that type, the county in which it is located, its address and telephone number, and the name of an administrative officer or employee of the agency, center, or home. The department of education shall compile, maintain, and update in January and July of each year, a list of all boards of education, schools, or programs of a type described in division (A)(3), (4), or (5) of this section that contains the name of each board of education, school, or program of that type, the county in which it is located, its address and telephone number, the name of the superintendent of the board or of an administrative officer or employee of the school or program, and, in relation to a board of education, the county or counties in which each of its schools is located and the address of each such school. The Ohio board of regents shall compile, maintain, and update in January and July of each year, a list of all institutions of a type described in division (A)(7) of this section that contains the name of each such institution, the county in which it is located, its address and telephone number, and the name of its president or other chief administrative officer. A sheriff required by division (A) or (C) of this section, or authorized by division (D)(2) of this section, to provide notices regarding an offender, or a designee of a sheriff of that type, may request the department of ~~human~~ job and family services, department of education, or Ohio board of regents, by telephone, in person, or by mail, to provide the sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom the notices described in divisions (A)(2) to (7) of this section are to be provided. Upon receipt of a request, the department or board shall provide the requesting sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and

entities to whom those notices are to be provided.

Sec. 2950.13. (A) The attorney general shall do all of the following:

(1) No later than July 1, 1997, establish and maintain a state registry of sex offenders that is housed at the bureau of criminal identification and investigation and that contains all of the registration, change of residence address, and verification information the bureau receives pursuant to sections 2950.04, 2950.05, and 2950.06 of the Revised Code regarding a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and all of the information the bureau receives pursuant to section 2950.14 of the Revised Code;

(2) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that contain guidelines necessary for the implementation of this chapter;

(3) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules for the implementation and administration of the provisions contained in section 2950.11 of the Revised Code that pertain to the notification of neighbors of a person who has committed a sexually oriented offense and has been adjudicated as being a sexually violent predator or determined to be a habitual sex offender, and rules that prescribe a manner in which victims of a sexually oriented offense committed by a person who has been adjudicated as being a sexual predator or determined to be a habitual sex offender may make a request that specifies that the victim would like to be provided the notices described in divisions (A)(1) and (2) of section 2950.10 of the Revised Code.

(4) In consultation with local law enforcement representatives and through the bureau of criminal identification and investigation, prescribe the forms to be used by judges and officials pursuant to section 2950.03 of the Revised Code to advise offenders of their duties of registration, notification of a change of residence address and registration of the new residence address, and residence address verification under sections 2950.04, 2950.05, and 2950.06 of the Revised Code, and prescribe the forms to be used by sheriffs relative to those duties of registration, change of residence address notification, and residence address verification;

(5) Make copies of the forms prescribed under division (D) of this section available to judges, officials, and sheriffs;

(6) Through the bureau of criminal identification and investigation, provide the notifications, the information, and the documents that the bureau is required to provide to appropriate law enforcement officials and to the federal bureau of investigation pursuant to sections 2950.04, 2950.05, and 2950.06 of the Revised Code;

(7) Through the bureau of criminal identification and investigation, maintain the verification forms returned under the residence address verification mechanism set forth in section 2950.06 of the Revised Code;

(8) In consultation with representatives of the officials, judges, and sheriffs, adopt procedures for officials, judges, and sheriffs to use to forward information, photographs, and fingerprints to the bureau of identification and investigation pursuant to the requirements of sections 2950.03, 2950.04, 2950.05, and 2950.06 of the Revised Code;

(9) In consultation with the director of education, the director of ~~human~~ job and family services, and the director of rehabilitation and correction and no later than July 1, 1997, adopt rules that contain guidelines to be followed by boards of education of a school district, chartered nonpublic schools or other schools not operated by a board of education, preschool programs, child day-care centers, type A family day-care homes, certified type B family day-care homes, and institutions of higher education regarding the proper use and administration of information received pursuant to section 2950.11 of the Revised Code relative to a person who has been adjudicated as being a sexual predator or determined to be a habitual sex offender;

(10) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that designate a geographic area or areas within which the notice described in division (B) of section 2950.11 of the Revised Code must be given to the persons identified in divisions (A)(2) to (8) of that section.

(B) The attorney general, in consultation with local law enforcement representatives, may adopt rules that establish one or more categories of neighbors of an offender who, in addition to the occupants of residences adjacent to an offender's place of residence, must be given the notice described in division (B) of section 2950.11 of the Revised Code.

(C) As used in this section, "local law enforcement representatives" means representatives of the sheriffs of this state, representatives of the municipal chiefs of police and marshals of this state, and representatives of the township constables and chiefs of police of the township police departments or police district police forces of this state.

Sec. 2951.02. (A)(1) In determining whether to suspend a sentence of imprisonment imposed upon an offender for a misdemeanor and place the offender on probation or whether to otherwise suspend a sentence of imprisonment imposed upon an offender for a misdemeanor pursuant to division (A) of section 2929.51 of the Revised Code, the court shall consider the risk that the offender will commit another offense and the need for protecting the public from the risk, the nature and circumstances of the

offense, and the history, character, and condition of the offender.

(2) An offender who has been convicted of or pleaded guilty to a misdemeanor shall not be placed on probation and shall not otherwise have the sentence of imprisonment imposed upon the offender suspended pursuant to division (A) of section 2929.51 of the Revised Code if any of the following applies:

(a) The offender is a repeat or dangerous offender, as defined in section 2935.36 of the Revised Code.

(b) The misdemeanor offense involved was not a violation of section 2923.12 of the Revised Code and was committed while the offender was armed with a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code.

(c) Under division (C) of section 2903.07 of the Revised Code, the offender is not eligible for probation.

(B) The following do not control the court's discretion but the court shall consider them in favor of placing an offender who has been convicted of or pleaded guilty to a misdemeanor on probation or in favor of otherwise suspending the offender's sentence of imprisonment pursuant to division (A) of section 2929.51 of the Revised Code:

(1) The offense neither caused nor threatened serious harm to persons or property, or the offender did not contemplate that it would do so.

(2) The offense was the result of circumstances unlikely to recur.

(3) The victim of the offense induced or facilitated it.

(4) There are substantial grounds tending to excuse or justify the offense, though failing to establish a defense.

(5) The offender acted under strong provocation.

(6) The offender has no history of prior delinquency or criminal activity, or has led a law-abiding life for a substantial period before commission of the present offense.

(7) The offender is likely to respond affirmatively to probationary or other court-imposed treatment.

(8) The character and attitudes of the offender indicate that the offender is unlikely to commit another offense.

(9) The offender has made or will make restitution or reparation to the victim of the offender's offense for the injury, damage, or loss sustained.

(10) Imprisonment of the offender will entail undue hardship to the offender or the offender's dependents.

(C)(1)(a) When an offender who has been convicted of or pleaded guilty to a misdemeanor is placed on probation or the sentence of that type of offender otherwise is suspended pursuant to division (A) of section 2929.51

of the Revised Code, the probation or other suspension shall be at least on condition that, during the period of probation or other suspension, the offender shall abide by the law, including, but not limited to, complying with the provisions of Chapter 2923. of the Revised Code relating to the possession, sale, furnishing, transfer, disposition, purchase, acquisition, carrying, conveying, or use of, or other conduct involving, a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code, and shall not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender, including, but not limited to, requiring the offender to make restitution pursuant to section 2929.21 of the Revised Code for all or part of the property damage that is caused by the offender's offense and for all or part of the value of the property that is the subject of any theft offense, as defined in division (K) of section 2913.01 of the Revised Code, that the offender committed. Compliance with the additional requirements also shall be a condition of the offender's probation or other suspension.

(b) When an offender who has been convicted of or pleaded guilty to a felony is sentenced to a nonresidential sanction pursuant to section 2929.17 of the Revised Code, the court shall impose as a condition of the sanction that, during the period of the nonresidential sanction, the offender shall abide by the law, including, but not limited to, complying with the provisions of Chapter 2923. of the Revised Code identified in division (C)(1)(a) of this section.

(2) During the period of a misdemeanor offender's probation or other suspension or during the period of a felon's nonresidential sanction, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the offender, the place of residence of the offender, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the offender has a right, title, or interest or for which the offender has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the conditions of the offender's probation or other suspension or the conditions of the offender's nonresidential sanction. If a felon who is sentenced to a nonresidential sanction is under the general control and supervision of the adult parole authority, as described in division (A)(2)(a) of section 2929.15 of the

Revised Code, adult parole authority field officers with supervisory responsibilities over the felon shall have the same search authority relative to the felon during the period of the sanction as is described under this division for probation officers. The court that places the offender on probation or suspends the misdemeanor offender's sentence of imprisonment pursuant to division (D)(2) or (4) of section 2929.51 of the Revised Code or that sentences the felon to a nonresidential sanction pursuant to section 2929.17 of the Revised Code shall provide the offender with a written notice that informs the offender that authorized probation officers or adult parole authority field officers with supervisory responsibilities over the offender who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of probation or other suspension or during the period of the nonresidential sanction if they have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the conditions of the offender's probation or other suspension or the conditions of the offender's nonresidential sanction.

(D) The following do not control the court's discretion but the court shall consider them against placing an offender who has been convicted of or pleaded guilty to a misdemeanor on probation and against otherwise suspending the offender's sentence of imprisonment pursuant to division (A) of section 2929.51 of the Revised Code:

(1) The offender recently violated the conditions of pardon, post-release control pursuant to section 2967.28 of the Revised Code, or a probation or suspension pursuant to division (A) of section 2929.51 of the Revised Code, previously granted the offender.

(2) There is a substantial risk that, while at liberty during the period of probation or other suspension, the offender will commit another offense.

(3) The offender is in need of correctional or rehabilitative treatment that can be provided best by the offender's commitment to a locally governed and operated residential facility.

(4) Regardless of whether the offender knew the age of the victim, the victim of the offense was sixty-five years of age or older or permanently and totally disabled at the time of the commission of the offense.

(E) The criteria listed in divisions (B) and (D) of this section shall not be construed to limit the matters that may be considered in determining whether to suspend sentence of imprisonment and place an offender who has been convicted of or pleaded guilty to a misdemeanor on probation or whether to otherwise suspend the offender's sentence of imprisonment pursuant to division (A) of section 2929.51 of the Revised Code.

(F)(1) When an offender is convicted of or pleads guilty to a misdemeanor, the court may require the offender, as a condition of probation or as a condition of otherwise suspending the offender's sentence pursuant to division (A) of section 2929.51 of the Revised Code, in addition to the conditions of probation or other suspension imposed pursuant to division (C) of this section, to perform supervised community service work under the authority of health districts, park districts, counties, municipal corporations, townships, other political subdivisions of the state, or agencies of the state or any of its political subdivisions, or under the authority of charitable organizations that render services to the community or its citizens, in accordance with this division. Supervised community service work shall not be required as a condition of probation or other suspension under this division unless the offender agrees to perform the work offered as a condition of probation or other suspension by the court. The court may require an offender who agrees to perform the work to pay to it a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work.

A court may permit any offender convicted of a misdemeanor to satisfy the payment of a fine imposed for the offense by performing supervised community service work as described in this division if the offender requests an opportunity to satisfy the payment by this means and if the court determines the offender is financially unable to pay the fine.

The supervised community service work that may be imposed under this division shall be subject to the following limitations:

(a) The court shall fix the period of the work and, if necessary, shall distribute it over weekends or over other appropriate times that will allow the offender to continue at the offender's occupation or to care for the offender's family. The period of the work as fixed by the court shall not exceed an aggregate of two hundred hours.

(b) An agency, political subdivision, or charitable organization must agree to accept the offender for the work before the court requires the offender to perform the work for the entity. A court shall not require an offender to perform supervised community service work for an agency, political subdivision, or charitable organization at a location that is an unreasonable distance from the offender's residence or domicile, unless the offender is provided with transportation to the location where the work is to be performed.

(c) A court may enter into an agreement with a county department of

~~human~~ job and family services for the management, placement, and supervision of offenders eligible for community service work in work activities, developmental activities, and alternative work activities under sections 5107.40 to 5107.69 of the Revised Code. If a court and a county department of ~~human~~ job and family services have entered into an agreement of that nature, the clerk of that court is authorized to pay directly to the county department ~~of human services~~ all or a portion of the fees collected by the court pursuant to this division in accordance with the terms of its agreement.

(d) Community service work that a court requires under this division shall be supervised by an official of the agency, political subdivision, or charitable organization for which the work is performed or by a person designated by the agency, political subdivision, or charitable organization. The official or designated person shall be qualified for the supervision by education, training, or experience, and periodically shall report, in writing, to the court and to the offender's probation officer concerning the conduct of the offender in performing the work.

(2) When an offender is convicted of a felony, the court may impose pursuant to sections 2929.15 and 2929.17 of the Revised Code a sanction that requires the offender to perform supervised community service work in accordance with this division and under the authority of any agency, political subdivision, or charitable organization as described in division (F)(1) of this section. The court may require an offender who is ordered to perform the work to pay to it a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work.

A court may permit an offender convicted of a felony to satisfy the payment of a fine imposed for the offense pursuant to section 2929.18 of the Revised Code by performing supervised community service work as described in this division if the court determines that the offender is financially unable to pay the fine.

The supervised community service work that may be imposed under this division shall be subject to the limitations specified in divisions (F)(1)(a) to (d) of this section, except that the court is not required to obtain the agreement of the offender to impose supervised community work as a sanction. Additionally, the total of any period of supervised community service work imposed on an offender under this division plus the period of all other sanctions imposed pursuant to sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code shall not exceed five years.

(G)(1) When an offender is convicted of a violation of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine or of a misdemeanor violation of section 2903.07 of the Revised Code or an equivalent violation of a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code and that provides for that type of finding by a jury or judge in a case in which the jury or judge found that the offender was under the influence of alcohol at the time of the commission of the offense, the court may require, as a condition of probation in addition to the required conditions of probation and the discretionary conditions of probation that may be imposed pursuant to division (C) of this section, any suspension or revocation of a driver's or commercial driver's license or permit or nonresident operating privilege, and all other penalties provided by law or by ordinance, that the offender operate only a motor vehicle equipped with an ignition interlock device that is certified pursuant to section 4511.83 of the Revised Code.

(2) When a court requires an offender, as a condition of probation pursuant to division (G)(1) of this section, to operate only a motor vehicle equipped with an ignition interlock device that is certified pursuant to section 4511.83 of the Revised Code, the offender immediately shall surrender the offender's driver's or commercial driver's license or permit to the court. Upon the receipt of the offender's license or permit, the court shall issue an order authorizing the offender to operate a motor vehicle equipped with a certified ignition interlock device, deliver the offender's license or permit to the bureau of motor vehicles, and include in the abstract of the case forwarded to the bureau pursuant to section 4507.021 of the Revised Code the conditions of probation imposed pursuant to division (G)(1) of this section. The court shall give the offender a copy of its order, and that copy shall be used by the offender in lieu of a driver's or commercial driver's license or permit until the bureau issues a restricted license to the offender.

(3) Upon receipt of an offender's driver's or commercial driver's license or permit pursuant to division (G)(2) of this section, the bureau of motor vehicles shall issue a restricted license to the offender. The restricted license shall be identical to the surrendered license, except that it shall have printed on its face a statement that the offender is prohibited from operating a motor vehicle that is not equipped with an ignition interlock device that is certified pursuant to section 4511.83 of the Revised Code. The bureau shall deliver the offender's surrendered license or permit to the court upon receipt of a

court order requiring it to do so, or reissue the offender's license or permit under section 4507.54 of the Revised Code if the registrar destroyed the offender's license or permit under that section. The offender shall surrender the restricted license to the court upon receipt of the offender's surrendered license or permit.

(4) If an offender violates a requirement of the court imposed under division (G)(1) of this section, the offender's driver's or commercial driver's license or permit or nonresident operating privilege may be suspended as provided in section 4507.16 of the Revised Code.

(5) As used in this division, "ignition interlock device" has the same meaning as in section 4511.83 of the Revised Code.

Sec. 2953.51. As used in sections 2953.51 to 2953.55 of the Revised Code:

(A) "No bill" means a report by the ~~foreman~~ foreperson or deputy ~~foreman~~ foreperson of a grand jury that an indictment is not found by the grand jury against a person who has been held to answer before the grand jury for the commission of an offense.

(B) "Prosecutor" has the same meaning as in section 2953.31 of the Revised Code.

(C) "Court" means the court in which a case is pending at the time a finding of not guilty in the case or a dismissal of the complaint, indictment, or information in the case is entered on the minutes or journal of the court, or the court to which the ~~foreman~~ foreperson or deputy ~~foreman~~ foreperson of a grand jury reports, pursuant to section 2939.23 of the Revised Code, that the grand jury has returned a no bill.

(D) "Official records" means all records that are possessed by any public office or agency that relate to a criminal case, including, but not limited to: the notation to the case in the criminal docket; all subpoenas issued in the case; all papers and documents filed by the defendant or the prosecutor in the case; all records of all testimony and evidence presented in all proceedings in the case; all court files, papers, documents, folders, entries, affidavits, or writs that pertain to the case; all computer, microfilm, microfiche, or microdot records, indices, or references to the case; all index references to the case; all fingerprints and photographs; all records and investigative reports pertaining to the case that are possessed by any law enforcement officer or agency, except that any records or reports that are the specific investigatory work product of a law enforcement officer or agency are not and shall not be considered to be official records when they are in the possession of that officer or agency; and all investigative records and reports other than those possessed by a law enforcement officer or agency

pertaining to the case. "Official records" does not include records or reports maintained pursuant to section 2151.421 of the Revised Code by a public children services agency or the department of ~~human~~ job and family services.

Sec. 3101.01. Male persons of the age of eighteen years, and female persons of the age of sixteen years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage. A minor must first obtain the consent of the minor's parents, surviving parent, parent who is designated the residential parent and legal custodian of the child by a court of competent jurisdiction, guardian, or any one of the following who has been awarded permanent custody of the minor by a court exercising juvenile jurisdiction:

(A) An adult person;

(B) The department of ~~human~~ job and family services or any child welfare organization certified by such department;

(C) A public children services agency.

A minor shall not be required to obtain the consent of a parent who resides in a foreign country, has neglected or abandoned such minor for a period of one year or longer immediately preceding the application for a marriage license, has been adjudged incompetent, is an inmate of a state mental or correctional institution, has been permanently deprived of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and to be the legal custodian of the child by a court exercising juvenile jurisdiction, or has been deprived of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and to be the legal custodian of the child by the appointment of a guardian of the person of the minor by the probate court or by any other court of competent jurisdiction.

Sec. 3107.013. Not later than ninety days after the effective date of this section, the ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the education programs an individual must complete for the purpose of division (A)(3) of section 3107.012 of the Revised Code. The education programs shall include courses on adoption placement practice, federal and state adoption assistance programs, and post adoption support services.

Sec. 3107.031. An assessor shall conduct a home study for the purpose of ascertaining whether a person seeking to adopt a minor is suitable to adopt. A written report of the home study shall be filed with the court at least ten days before the petition for adoption is heard.

The report shall contain the opinion of the assessor as to whether the

person who is the subject of the report is suitable to adopt a minor and other information and documents specified in rules adopted by the ~~department~~ director of ~~human~~ job and family services under section 3107.032 of the Revised Code. The assessor shall not consider the person's age when determining whether the person is suitable to adopt if the person is old enough to adopt as provided by section 3107.03 of the Revised Code.

An assessor may request departments or agencies within or outside this state to assist in the home study as may be appropriate and to make a written report to be included with and attached to the report to the court. The assessor shall make similar home studies and reports on behalf of other assessors designated by the courts of this state or another place.

Upon order of the court, the costs of the home study and other proceedings shall be paid by the person seeking to adopt, and, if the home study is conducted by a public agency or public employee, the part of the cost representing any services and expenses shall be taxed as costs and paid into the state treasury or county treasury, as the court may direct.

On request, the assessor shall provide the person seeking to adopt a copy of the report of the home study. The assessor shall delete from that copy any provisions concerning the opinion of other persons, excluding the assessor, of the person's suitability to adopt a minor.

Sec. 3107.032. Not later than ninety days after ~~the effective date of this section~~ June 20, 1996, the ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the manner in which a home study is to be conducted and the information and documents to be included in a home study report.

Sec. 3107.051. (A) Except as provided in division (B) of this section, a person seeking to adopt a minor, or the agency or attorney arranging the adoption, shall submit a petition for the minor's adoption no later than ninety days after the date the minor is placed in the person's home. Failure to file a petition within the time provided by this division does not affect a court's jurisdiction to hear the petition and is not grounds for denying the petition.

(B) This section does not apply if any of the following apply:

(1) The person seeking to adopt the minor is the minor's stepparent;

(2) The minor was not originally placed in the person's home with the purpose of the person adopting the minor;

(3) The minor is a "child with special needs," as defined by the ~~department~~ director of ~~human~~ job and family services in accordance with section 5153.163 of the Revised Code.

Sec. 3107.062. The department of ~~human~~ job and family services shall establish a putative father registry. To register, a putative father must

complete a registration form prescribed under section 3107.065 of the Revised Code and submit it to the department. The registration form shall include the putative father's name; the address or telephone number at which he wishes to receive, pursuant to section 3107.11 of the Revised Code, notice of a petition to adopt the minor he claims as his child; and the name of the mother of the minor.

A putative father may register before or not later than thirty days after the birth of the child. No fee shall be charged for registration.

On receipt of a completed registration form, the department shall indicate on the form the date of receipt and file it in the putative father registry. The department shall maintain registration forms in a manner that enables it to access a registration form using either the name of the putative father or of the mother.

Sec. 3107.063. A mother or an agency or attorney arranging a minor's adoption may request at any time that the department of ~~human~~ job and family services search the putative father registry to determine whether a man is registered as the minor's putative father. The request shall include the mother's name. On receipt of the request, the department shall search the registry. If the department determines that a man is registered as the minor's putative father, it shall provide the mother, agency, or attorney a certified copy of the man's registration form. If the department determines that no man is registered as the minor's putative father, it shall provide the mother, agency, or attorney a certified written statement to that effect. The department shall specify in the statement the date the search request was submitted. No fee shall be charged for searching the registry.

Division (B) of section 3107.17 of the Revised Code does not apply to this section.

Sec. 3107.064. (A) Except as provided in division (B) of this section, a court shall not issue a final decree of adoption or finalize an interlocutory order of adoption unless the mother placing the minor for adoption or the agency or attorney arranging the adoption files with the court a certified document provided by the department of ~~human~~ job and family services under section 3107.063 of the Revised Code. The court shall not accept the document unless the date the department places on the document pursuant to that section is thirty-one or more days after the date of the minor's birth.

(B) The document described in division (A) of this section is not required if any of the following apply:

(1) The mother was married at the time the minor was conceived or born;

(2) The parent placing the minor for adoption previously adopted the

minor;

(3) Prior to the date a petition to adopt the minor is filed, a man has been determined to have a parent and child relationship with the minor by a court proceeding pursuant to sections 3111.01 to 3111.19 of the Revised Code, a court proceeding in another state, an administrative agency proceeding pursuant to sections 3111.20 to 3111.29 of the Revised Code, or an administrative agency proceeding in another state;

(4) The minor's father acknowledged paternity of the minor and that acknowledgment has become final pursuant to section 2151.232, 3111.211, or 5101.314 of the Revised Code;

(5) A public children services agency has permanent custody of the minor pursuant to Chapter 2151. or division (B) of section 5103.15 of the Revised Code after both parents lost or surrendered parental rights, privileges, and responsibilities over the minor.

Sec. 3107.065. Not later than ninety days after the effective date of this section, the ~~department~~ director of ~~human~~ job and family services shall do both of the following:

(A) Adopt rules in accordance with Chapter 119. of the Revised Code governing the putative father registry. The rules shall establish the registration form to be used by a putative father under section 3107.062 of the Revised Code.

(B) Establish a campaign to promote awareness of the putative father registry. The campaign shall include informational materials about the registry.

Sec. 3107.071. If a parent enters into a voluntary permanent custody surrender agreement under division (B)(2) of section 5103.15 of the Revised Code on or after the effective date of this section, the parent's consent to the adoption of the child who is the subject of the agreement is required unless all of the following requirements are met:

(A) In the case of a parent whose child, if adopted, will be an adopted person as defined in section 3107.45 of the Revised Code:

(1) The parent does all of the following:

(a) ~~signs~~ Signs the component of the form prescribed ~~by the department of human services~~ under division (A)(1)(a) of section 3107.083 of the Revised Code;

(b) Checks either the "yes" or "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code and signs that component;

(c) If the parent is the mother, completes and signs the component of the form prescribed under division (A)(1)(c) of section 3107.083 of the Revised

Code.

(2) The agency provides the parent the opportunity to sign, if the parent chooses to do so, the components of the form prescribed under divisions (A)(1)(d), (e), and (f) of section 3107.083 of the Revised Code;

(3) The agency files with the juvenile and probate courts the form prescribed under division (A)(1) of section 3107.083 of the Revised Code signed by the parent, provides a copy of the form signed by the parent to the parent, and keeps a copy of the form signed by the parent in the agency's records.

The court shall keep a copy of the form signed by the parent in the court records.

(B) In the case of a parent whose child, if adopted, will be an adopted person as defined in section 3107.39 of the Revised Code:

(1) The parent does both of the following:

(a) Signs the component of the form prescribed ~~by the department of human services~~ under division (B)(1)(a) of section 3107.083 of the Revised Code;

(b) If the parent is the mother, completes and signs the component of the form prescribed under division (B)(1)(b) of section 3107.083 of the Revised Code.

(2) The agency provides the parent the opportunity to sign, if the parent chooses to do so, the components of the form prescribed under divisions (B)(1)(c), (d), and (e) of section 3107.083 of the Revised Code at the time the parent enters into the agreement with the agency;

(3) The agency files the form signed by the parent with the juvenile and probate courts, provides a copy of the form signed by the parent to the parent, and keeps a copy of the form signed by the parent in the agency's records.

The court shall keep a copy of the form signed by the parent in the court records.

Sec. 3107.081. (A) Except as provided in divisions (B), (E), and (F) of this section, a parent of a minor, who will be, if adopted, an adopted person as defined in section 3107.45 of the Revised Code, shall do all of the following as a condition of a court accepting the parent's consent to the minor's adoption:

(1) Appear personally before the court;

(2) Sign the component of the form prescribed ~~by the department of human services~~ under division (A)(1)(a) of section 3107.083 of the Revised Code;

(3) Check either the "yes" or "no" space provided on the component of

the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code and sign that component;

(4) If the parent is the mother, complete and sign the component of the form prescribed under division (A)(1)(c) of section 3107.083 of the Revised Code.

At the time the parent signs the components of the form prescribed under divisions (A)(1)(a), (b), and (c) of section 3107.083 of the Revised Code, the parent may sign, if the parent chooses to do so, the components of the form prescribed under divisions (A)(1)(d), (e), and (f) of that section. After the parent signs the components required to be signed and any discretionary components the parent chooses to sign, the parent, or the attorney arranging the adoption, shall file the form and parent's consent with the court. The court or attorney shall give the parent a copy of the form and consent. The court and attorney shall keep a copy of the form and consent in the court and attorney's records of the adoption.

The court shall question the parent to determine that the parent understands the adoption process, the ramifications of consenting to the adoption, each component of the form prescribed under division (A)(1) of section 3107.083 of the Revised Code, and that the minor and adoptive parent may receive identifying information about the parent in accordance with section 3107.47 of the Revised Code unless the parent checks the "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code or has a denial of release form filed with the department of health under section 3107.46 of the Revised Code. The court also shall question the parent to determine that the parent's consent to the adoption and any decisions the parent makes in filling out the form prescribed under division (A)(1) of section 3107.083 of the Revised Code are made voluntarily.

(B) The parents of a minor, who is less than six months of age and will be, if adopted, an adopted person as defined in section 3107.45 of the Revised Code, may consent to the minor's adoption without personally appearing before a court if both parents do all of the following:

(1) Execute a notarized statement of consent to the minor's adoption before the attorney arranging the adoption;

(2) Sign the component of the form prescribed ~~by the department of human services~~ under division (A)(1)(a) of section 3107.083 of the Revised Code;

(3) Check either the "yes" or "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code and sign that component.

At the time the parents sign the components of the form prescribed under divisions (A)(1)(a) and (b) of section 3107.083 of the Revised Code, the mother shall complete and sign the component of the ~~from~~ form prescribed under division (A)(1)(c) of that section and the attorney arranging the adoption shall provide the parents the opportunity to sign, if they choose to do so, the components of the form prescribed under divisions (A)(1)(d), (e), and (f) of that section. At the time the petition to adopt the minor is submitted to the court, the attorney shall file the parents' consents and forms with the court. The attorney shall give the parents a copy of the consents and forms. At the time the attorney files the consents and forms with the court, the attorney also shall file with the court all other documents the ~~department~~ director of ~~human~~ job and family services requires by rules adopted under division (D) of section 3107.083 of the Revised Code to be filed with the court. The court and attorney shall keep a copy of the consents, forms, and documents in the court and attorney's records of the adoption.

(C) Except as provided in divisions (D), (E), and (F) of this section, a parent of a minor, who will be, if adopted, an adopted person as defined in section 3107.39 of the Revised Code, shall do all of the following as a condition of a court accepting the parent's consent to the minor's adoption:

(1) Appear personally before the court;

(2) Sign the component of the form prescribed ~~by the department of human services~~ under division (B)(1)(a) of section 3107.083 of the Revised Code;

(3) If the parent is the mother, complete and sign the component of the form prescribed under division (B)(1)(b) of section 3107.083 of the Revised Code.

At the time the parent signs the components prescribed under divisions (B)(1)(a) and (b) of section 3107.083 of the Revised Code, the parent may sign, if the parent chooses to do so, the components of the form prescribed under divisions (B)(1)(c), (d), and (e) of that section. After the parent signs the components required to be signed and any discretionary components the parent chooses to sign, the parent, or the attorney arranging the adoption, shall file the form and parent's consent with the court. The court or attorney shall give the parent a copy of the form and consent. The court and attorney shall keep a copy of the form and consent in the court and attorney's records of the adoption.

The court shall question the parent to determine that the parent understands the adoption process, the ramifications of consenting to the adoption, and each component of the form prescribed under division (B)(1)

of section 3107.083 of the Revised Code. The court also shall question the parent to determine that the parent's consent to the adoption and any decisions the parent makes in filling out the form are made voluntarily.

(D) The parent of a minor who is less than six months of age and will be, if adopted, an adopted person as defined in section 3107.39 of the Revised Code may consent to the minor's adoption without personally appearing before a court if the parent does all of the following:

(1) Executes a notarized statement of consent to the minor's adoption before the attorney arranging the adoption;

(2) Signs the component of the form prescribed ~~by the department of human services~~ under division (B)(1)(a) of section 3107.083 of the Revised Code;

(3) If the parent is the mother, completes and signs the component of the form prescribed under division (B)(1)(b) of section 3107.083 of the Revised Code.

At the time the parent signs the components of the form prescribed under ~~division~~ divisions (B)(1)(a) and (b) of section 3107.083 of the Revised Code, the attorney arranging the adoption shall provide the parent the opportunity to sign, if the parent chooses to do so, the components of the form prescribed under divisions (B)(1)(c), (d), and (e) of that section. At the time the petition to adopt the minor is submitted to the court, the attorney shall file the parent's consent and form with the court. The attorney shall give the parent a copy of the consent and form. At the time the attorney files the consent and form with the court, the attorney also shall file with the court all other documents the ~~department~~ director of ~~human~~ job and family services requires by rules adopted under division (D) of section 3107.083 of the Revised Code to be filed with the court. The court and attorney shall keep a copy of the consent, form, and documents in the court and attorney's records of the adoption.

(E) If a minor is to be adopted by a stepparent, the parent who is not married to the stepparent may consent to the minor's adoption without appearing personally before a court if the parent executes consent in the presence of a person authorized to take acknowledgments. The attorney arranging the adoption shall file the consent with the court and give the parent a copy of the consent. The court and attorney shall keep a copy of the consent in the court and attorney's records of the adoption.

(F) If a parent of a minor to be adopted resides in another state, the parent may consent to the minor's adoption without appearing personally before a court if the parent executes consent in the presence of a person authorized to take acknowledgments. The attorney arranging the adoption

shall file the consent with the court and give the parent a copy of the consent. The court and attorney shall keep a copy of the consent in the court and attorney's records of the adoption.

Sec. 3107.082. Not less than seventy-two hours prior to the date a parent executes consent to the adoption of the parent's child under section 3107.081 of the Revised Code, an assessor shall meet in person with the parent and do both of the following unless the child is to be adopted by a stepparent or the parent resides in another state:

(A) Provide the parent with a copy of the written materials about adoption prepared ~~by the department of human services~~ under division (C) of section 3107.083 of the Revised Code, discuss with the parent the adoption process and ramifications of a parent consenting to a child's adoption, and provide the parent the opportunity to review the materials and to ask questions about the materials, discussion, and related matters;

(B) Unless the child, if adopted, will be an adopted person as defined in section 3107.39 of the Revised Code, inform the parent that the child and the adoptive parent may receive, in accordance with section 3107.47 of the Revised Code, identifying information about the parent that is contained in the child's adoption file maintained by the department of health unless the parent checks the "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code or signs and has filed with the department a denial of release form prescribed under section 3107.50 of the Revised Code.

Sec. 3107.083. Not later than ninety days after ~~the effective date of this section~~ June 20, 1996, the ~~department~~ director of ~~human~~ job and family services shall do all of the following:

(A)(1) For a parent of a child who, if adopted, will be an adopted person as defined in section 3107.45 of the Revised Code, prescribe a form that has the following six components:

(a) A component the parent signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to indicate the requirements of section 3107.082 or 5103.152 of the Revised Code have been met. The component shall be as follows:

"Statement Concerning Ohio Law and Adoption Materials

By signing this component of this form, I acknowledge that it has been explained to me, and I understand, that, if I check the space on the next component of this form that indicates that I authorize the release, the adoption file maintained by the Ohio Department of Health, which contains identifying information about me at the time of my child's birth, will be released, on request, to the adoptive parent when the adoptee is at least age

eighteen but younger than age twenty-one and to the adoptee when he or she is age twenty-one or older. It has also been explained to me, and I understand, that I may prohibit the release of identifying information about me contained in the adoption file by checking the space on the next component of this form that indicates that I do not authorize the release of the identifying information. It has additionally been explained to me, and I understand, that I may change my mind regarding the decision I make on the next component of this form at any time and as many times as I desire by signing, dating, and having filed with the Ohio Department of Health a denial of release form or authorization of release form prescribed and provided by the Department of Health and providing the Department two items of identification.

By signing this component of this form, I also acknowledge that I have been provided a copy of written materials about adoption prepared by the Ohio Department of ~~Human~~ Job and Family Services, the adoption process and ramifications of consenting to adoption or entering into a voluntary permanent custody surrender agreement have been discussed with me, and I have been provided the opportunity to review the materials and ask questions about the materials and discussion.

Signature of biological parent: .....

Signature of witness: .....

Date: ....."

(b) A component the parent signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code regarding the parent's decision whether to allow identifying information about the parent contained in an adoption file maintained by the department of health to be released to the parent's child and adoptive parent pursuant to section 3107.47 of the Revised Code. The component shall be as follows:

"Statement Regarding Release of Identifying Information

The purpose of this component of this form is to allow a biological parent to decide whether to allow the Ohio Department of Health to provide an adoptee and adoptive parent identifying information about the adoptee's biological parent contained in an adoption file maintained by the Department. Please check one of the following spaces:

..... YES, I authorize the Ohio Department of Health to release identifying information about me, on request, to the adoptive parent when the adoptee is at least age eighteen but younger than age twenty-one and to the adoptee when he or she is age twenty-one or older.

..... NO, I do not authorize the release of identifying

information about me to the adoptive parent or adoptee.

Signature of biological parent: .....

Signature of witness: .....

Date: ....."

(c) A component the parent, if the mother of the child, completes and signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to indicate, to the extent of the mother's knowledge, all of the following:

(i) Whether the mother, during her pregnancy, was a recipient of the medical assistance program established under Chapter 5111. of the Revised Code or other public health insurance program and, if so, the dates her eligibility began and ended;

(ii) Whether the mother, during her pregnancy, was covered by private health insurance and, if so, the dates the coverage began and ended, the name of the insurance provider, the type of coverage, and the identification number of the coverage;

(iii) The name and location of the hospital, freestanding birth center, or other place where the mother gave birth and, if different, received medical care immediately after giving birth;

(iv) The expenses of the obstetrical and neonatal care;

(v) Whether the mother has been informed that the adoptive parent or the agency or attorney arranging the adoption are to pay expenses involved in the adoption, including expenses the mother has paid and expects to receive or has received reimbursement, and, if so, what expenses are to be or have been paid and an estimate of the expenses;

(vi) Any other information related to expenses the department determines appropriate to be included in this component.

(d) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent materials, other than photographs of the parent, that the parent requests be given to the child or adoptive parent pursuant to section 3107.68 of the Revised Code.

(e) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent photographs of the parent pursuant to section 3107.68 of the Revised Code.

(f) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent the first name of the parent pursuant to section 3107.68 of the Revised Code.

(2) State at the bottom of the form that the parent is to receive a copy of the form the parent signed.

(3) Provide copies of the form prescribed under this division to probate and juvenile courts, public children services agencies, private child placing agencies, private noncustodial agencies, attorneys, and persons authorized to take acknowledgments.

(B)(1) For a parent of a child who, if adopted, will become an adopted person as defined in section 3107.39 of the Revised Code, prescribe a form that has the following five components:

(a) A component the parent signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to attest that the requirement of division (A) of section 3107.082 or division (A) of section 5103.152 of the Revised Code has been met;

(b) A component the parent, if the mother of the child, completes and signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to indicate, to the extent of the mother's knowledge, all of the following:

(i) Whether the mother, during her pregnancy, was a recipient of the medical assistance program established under Chapter 5111. of the Revised Code or other public health insurance program and, if so, the dates her eligibility began and ended;

(ii) Whether the mother, during her pregnancy, was covered by private health insurance and, if so, the dates the coverage began and ended, the name of the insurance provider, the type of coverage, and the identification number of the coverage;

(iii) The name and location of the hospital, freestanding birth center, or other place where the mother gave birth and, if different, received medical care immediately after giving birth;

(iv) The expenses of the obstetrical and neonatal care;

(v) Whether the mother has been informed that the adoptive parent or the agency or attorney arranging the adoption are to pay expenses involved in the adoption, including expenses the mother has paid and expects to receive or has received reimbursement for, and, if so, what expenses are to be or have been paid and an estimate of the expenses;

(vi) Any other information related to expenses the department determines appropriate to be included in the component.

(c) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent materials, other than photographs of the parent, that the parent requests be given to the child or adoptive parent pursuant to section 3107.68 of the Revised Code.

(d) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent photographs of the parent pursuant to section 3107.68 of the Revised Code.

(e) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent the first name of the parent pursuant to section 3107.68 of the Revised Code.

(2) State at the bottom of the form that the parent is to receive a copy of the form the parent signed.

(3) Provide copies of the form prescribed under this division to probate and juvenile courts, public children services agencies, private child placing agencies, private noncustodial agencies, and attorneys.

(C) Prepare the written materials about adoption that are required to be given to parents under division (A) of section 3107.082 and division (A) of section 5103.152 of the Revised Code. The materials shall provide information about the adoption process, including ramifications of a parent consenting to a child's adoption or entering into a voluntary permanent custody surrender agreement. The materials also shall include referral information for professional counseling and adoption support organizations. The ~~department~~ director shall provide the materials to assessors.

(D) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the documents that must be filed with a probate court under divisions (B) and (D) of section 3107.081 of the Revised Code and a juvenile court under divisions (C) and (E) of section 5103.151 of the Revised Code.

Sec. 3107.09. (A) The department of ~~human~~ job and family services shall prescribe and supply forms for the taking of social and medical histories of the biological parents of a minor available for adoption.

(B) An assessor shall record the social and medical histories of the biological parents of a minor available for adoption, unless the minor is to be adopted by the minor's stepparent or grandparent. The assessor shall use the forms prescribed pursuant to division (A) of this section. The assessor shall not include on the forms identifying information about the biological parents or other ancestors of the minor.

(C) A social history shall describe and identify the age; ethnic, racial, religious, marital, and physical characteristics; and educational, cultural, talent and hobby, and work experience background of the biological parents of the minor. A medical history shall identify major diseases, malformations, allergies, ear or eye defects, major conditions, and major health problems of the biological parents that are or may be congenital or familial. These histories may include other social and medical information relative to the biological parents and shall include social and medical information relative to the minor's other ancestors.

The social and medical histories may be obtained through interviews

with the biological parents or other persons and from any available records if a biological parent or any legal guardian of a biological parent consents to the release of information contained in a record. An assessor who considers it necessary may request that a biological parent undergo a medical examination. In obtaining social and medical histories of a biological parent, an assessor shall inform the biological parent, or a person other than a biological parent who provides information pursuant to this section, of the purpose and use of the histories and of the biological parent's or other person's right to correct or expand the histories at any time.

(D) A biological parent, or another person who provided information in the preparation of the social and medical histories of the biological parents of a minor, may cause the histories to be corrected or expanded to include different or additional types of information. The biological parent or other person may cause the histories to be corrected or expanded at any time prior or subsequent to the adoption of the minor, including any time after the minor becomes an adult. A biological parent may cause the histories to be corrected or expanded even if the biological parent did not provide any information to the assessor at the time the histories were prepared.

To cause the histories to be corrected or expanded, a biological parent or other person who provided information shall provide the information to be included or specify the information to be corrected to whichever of the following is appropriate under the circumstances:

(1) Subject to division (D)(2) of this section, if the biological parent or other person knows the assessor who prepared the histories, to the assessor;

(2) If the biological parent or person does not know the assessor or finds that the assessor has ceased to perform assessments, to the court involved in the adoption or, if that court is not known, to the department of health.

An assessor who receives information from a biological parent or other person pursuant to division (D)(1) of this section shall determine whether the information is of a type that divisions (B) and (C) of this section permit to be included in the histories. If the assessor determines the information is of a permissible type, the assessor shall cause the histories to be corrected or expanded to reflect the information. If, at the time the information is received, the histories have been filed with the court as required by division (E) of this section, the court shall cooperate with the assessor in correcting or expanding the histories.

If the department of health or a court receives information from a biological parent or other person pursuant to division (D)(2) of this section, it shall determine whether the information is of a type that divisions (B) and (C) of this section permit to be included in the histories. If a court

determines the information is of a permissible type, the court shall cause the histories to be corrected or expanded to reflect the information. If the department of health so determines, the court involved shall cooperate with the department in the correcting or expanding of the histories.

An assessor or the department of health shall notify a biological parent or other person in writing if the assessor or department determines that information the biological parent or other person provided or specified for inclusion in a history is not of a type that may be included in a history. On receipt of the notice, the biological parent or other person may petition the court involved in the adoption to make a finding as to whether the information is of a type that may be included in a history. On receipt of the petition, the court shall issue its finding without holding a hearing. If the court finds that the information is of a type that may be included in a history, it shall cause the history to be corrected or expanded to reflect the information.

(E) An assessor shall file the social and medical histories of the biological parents prepared pursuant to divisions (B) and (C) of this section with the court with which a petition to adopt the biological parents' child is filed. The court promptly shall provide a copy of the social and medical histories filed with it to the petitioner. In a case involving the adoption of a minor by any person other than the minor's stepparent or grandparent, a court may refuse to issue an interlocutory order or final decree of adoption if the histories of the biological parents have not been so filed, unless the assessor certifies to the court that information needed to prepare the histories is unavailable for reasons beyond the assessor's control.

Sec. 3107.091. (A) As used in this section, "biological parent" means a biological parent whose offspring, as a minor, was adopted and with respect to whom a medical and social history was not prepared prior or subsequent to the adoption.

(B) A biological parent may request the department of ~~human~~ job and family services to provide the biological parent with a copy of the social and medical history forms prescribed by the department pursuant to section 3107.09 of the Revised Code. The department, upon receipt of such a request, shall provide the forms to the biological parent, if the biological parent indicates that the forms are being requested so that the adoption records of the biological parent's offspring will include a social and medical history of the biological parent.

In completing the forms, the biological parent may include information described in division (C) of section 3107.09 of the Revised Code, but shall not include identifying information. When the biological parent has

completed the forms to the extent the biological parent wishes to provide information, the biological parent shall return them to the department. The department shall review the completed forms, and shall determine whether the information included by the biological parent is of a type permissible under divisions (B) and (C) of section 3107.09 of the Revised Code and, to the best of its ability, whether the information is accurate. If it determines that the forms contain accurate, permissible information, the department, after excluding from the forms any information the department deems impermissible, shall file them with the court that entered the interlocutory order or final decree of adoption in the adoption case. If the department needs assistance in determining that court, the department of health, upon request, shall assist it.

The department of ~~human~~ job and family services shall notify the biological parent in writing if it excludes from the biological parent's social and medical history forms information deemed impermissible. On receipt of the notice, the biological parent may petition the court with which the forms were filed to make a finding as to whether the information is permissible. On receipt of the petition, the court shall issue its finding without holding a hearing. If the court finds the information is permissible, it shall cause the information to be included on the forms.

Upon receiving social and medical history forms pursuant to this section, a court shall cause them to be filed in the records pertaining to the adoption case.

Social and medical history forms completed by a biological parent pursuant to this section may be corrected or expanded by the biological parent in accordance with division (D) of section 3107.09 of the Revised Code.

Access to the histories shall be granted in accordance with division (D) of section 3107.17 of the Revised Code.

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the Revised Code, as used in this section, "agency" does not include a public children services agency.

(B) An agency or attorney, whichever arranges a minor's adoption, shall file with the court a preliminary estimate accounting not later than the time the adoption petition for the minor is filed with the court. The agency or attorney, whichever arranges the adoption, also shall file a final accounting with the court before a final decree of adoption is issued or an interlocutory order of adoption is finalized for the minor. The agency or attorney shall complete and file accountings in a manner acceptable to the court.

An accounting shall specify all disbursements of anything of value the

petitioner, a person on the petitioner's behalf, and the agency or attorney made and has agreed to make in connection with the minor's permanent surrender under division (B) of section 5103.15 of the Revised Code, placement under section 5103.16 of the Revised Code, and adoption under this chapter. The agency or attorney shall include in an accounting an itemization of each expense listed in division (C) of this section. The itemization of the expenses specified in divisions (C)(3) and (4) of this section shall show the amount the agency or attorney charged or is going to charge for the services and the actual cost to the agency or attorney of providing the services. An accounting shall indicate whether any expenses listed in division (C) of this section do not apply to the adoption proceeding for which the accounting is filed.

The agency or attorney shall include with a preliminary estimate accounting and a final accounting a written statement signed by the petitioner that the petitioner has reviewed the accounting and attests to its accuracy.

(C) No petitioner, person acting on a petitioner's behalf, or agency or attorney shall make or agree to make any disbursements in connection with the minor's permanent surrender, placement, or adoption other than for the following:

(1) Physician expenses incurred on behalf of the birth mother or minor in connection with prenatal care, delivery, and confinement prior to or following the minor's birth;

(2) Hospital or other medical facility expenses incurred on behalf of the birth mother or minor in connection with the minor's birth;

(3) Expenses charged by the attorney arranging the adoption for providing legal services in connection with the placement and adoption, including expenses incurred by the attorney pursuant to sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the Revised Code;

(4) Expenses charged by the agency arranging the adoption for providing services in connection with the permanent surrender and adoption, including the agency's application fee and the expenses incurred by the agency pursuant to sections 3107.031, 3107.09, 3107.12, 5103.151, and 5103.152 of the Revised Code;

(5) Temporary costs of routine maintenance and medical care for a minor required under section 5103.16 of the Revised Code if the person seeking to adopt the minor refuses to accept placement of the minor;

(6) Guardian ad litem fees incurred on behalf of the minor in any court proceedings;

(7) Foster care expenses incurred in connection with any temporary care

and maintenance of the minor;

(8) Court expenses incurred in connection with the minor's permanent surrender, placement, and adoption.

(D) If a court determines from an accounting that an amount that is going to be disbursed for an expense listed in division (C) of this section is unreasonable, the court may order a reduction in the amount to be disbursed. If a court determines from an accounting that an unreasonable amount was disbursed for an expense listed in division (C) of this section, the court may order the person who received the disbursement to refund to the person who made the disbursement an amount the court orders.

If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section is going to be made, the court may issue an injunction prohibiting the disbursement. If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section was made, the court may order the person who received the disbursement to return it to the person who made the disbursement.

If a court determines that a final accounting does not completely report all the disbursements that are going to be made or have been made in connection with the minor's permanent surrender, placement, and adoption, the court shall order the agency or attorney to file with the court an accounting that completely reports all such disbursements.

The agency or attorney shall file the final accounting with the court not later than ten days prior to the date scheduled for the final hearing on the adoption. The court may not issue a final decree of adoption or finalize an interlocutory order of adoption of a minor until at least ten days after the agency or attorney files the final accounting.

(E) At the conclusion of each adoption proceeding, the court shall prepare a summary of the proceeding, and on or before the tenth day of each month, send copies of the summaries for all proceedings concluded during the preceding calendar month to the department of ~~human~~ job and family services. The summary shall contain:

(1) A notation of the nature and approximate value or amount of anything paid in connection with the proceeding, compiled from the final accounting required by division (B) of this section and indicating the category of division (C) of this section to which any payment relates;

(2) If the court has not issued a decree because of the requirements of division (D) of this section, a notation of that fact and a statement of the reason for refusing to issue the decree, related to the financial data summarized under division (E)(1) of this section;

(3) If the adoption was arranged by an attorney, a notation of that fact.

The summary shall contain no information identifying by name any party to the proceeding or any other person, but may contain additional narrative material that the court considers useful to an analysis of the summary.

(F) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor.

Sec. 3107.12. (A) Except as provided in division (B) of this section, an assessor shall conduct a prefinalization assessment of a minor and petitioner before a court issues a final decree of adoption or finalizes an interlocutory order of adoption for the minor. On completion of the assessment, the assessor shall prepare a written report of the assessment and provide a copy of the report to the court before which the adoption petition is pending.

The report of a prefinalization assessment shall include all of the following:

(1) The adjustment of the minor and the petitioner to the adoptive placement;

(2) The present and anticipated needs of the minor and the petitioner, as determined by a review of the minor's medical and social history, for adoption-related services, including assistance under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 670, as amended, or section 5153.163 of the Revised Code and counseling, case management services, crisis services, diagnostic services, and therapeutic counseling.

(3) The physical, mental, and developmental condition of the minor;

(4) If known, the minor's biological family background, including identifying information about the biological or other legal parents;

(5) The reasons for the minor's placement with the petitioner, the petitioner's attitude toward the proposed adoption, and the circumstances under which the minor was placed in the home of the petitioner;

(6) The attitude of the minor toward the proposed adoption, if the minor's age makes this feasible;

(7) If the minor is an Indian child, as defined in 25 U.S.C.A. 1903(4), how the placement complies with the "Indian Child Welfare Act of 1978," 92 Stat. 3069, 25 U.S.C.A. 1901, as amended.

The assessor shall file the prefinalization report with the court not later than twenty days prior to the date scheduled for the final hearing on the adoption unless the court determines there is good cause for filing the report at a later date.

(B) This section does not apply if the petitioner is the minor's stepparent, unless a court, after determining a prefinalization assessment is

in the best interest of the minor, orders that an assessor conduct a prefinalization assessment.

(C) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code defining "counseling," "case management services," "crisis services," "diagnostic services," and "therapeutic counseling" for the purpose of this section.

Sec. 3107.13. (A) A final decree of adoption shall not be issued and an interlocutory order of adoption does not become final, until the person to be adopted has lived in the adoptive home for at least six months after placement by an agency, or for at least six months after the department of ~~human~~ job and family services or the court has been informed of the placement of the person with the petitioner, and the department or court has had an opportunity to observe or investigate the adoptive home, or in the case of adoption by a stepparent, until at least six months after the filing of the petition, or until the child has lived in the home for at least six months.

(B) In the case of a foster parent adopting a foster child or person adopting a child to whom the person is related, the court shall apply the amount of time the child lived in the foster parent's or relative's home prior to the date the foster parent or relative files the petition to adopt the child toward the six-month waiting period established by division (A) of this section.

Sec. 3107.141. After an assessor files a home study report under section 3107.031, a social and medical history under section 3107.09, or a prefinalization assessment report under section 3107.12 of the Revised Code, or the department of ~~human~~ job and family services files a social and medical history under section 3107.091 of the Revised Code, a court may do either or both of the following if the court determines the report or history does not comply with the requirements governing the report or history or, in the case of a home study or prefinalization assessment report, does not enable the court to determine whether an adoption is in the best interest of the minor to be adopted:

(A) Order the assessor or department to redo or supplement the report or history in a manner the court directs;

(B) Appoint a different assessor to redo or supplement the report or history in a manner the court directs.

Sec. 3107.17. (A) All hearings held under sections 3107.01 to 3107.19 of the Revised Code shall be held in closed court without the admittance of any person other than essential officers of the court, the parties, the witnesses of the parties, counsel, persons who have not previously consented to an adoption but who are required to consent, and

ives of the agencies present to perform their official duties.

(B)(1) Except as provided in divisions (B)(2) and (D) of this section and sections 3107.39 to 3107.44 and 3107.60 to 3107.68 of the Revised Code, no person or governmental entity shall knowingly reveal any information contained in a paper, book, or record pertaining to a placement under section 5103.16 of the Revised Code or to an adoption that is part of the permanent record of a court or maintained by the department of ~~human~~ job and family services, an agency, or attorney without the consent of a court.

(2) An agency or attorney may examine the agency's or attorney's own papers, books, and records pertaining to a placement or adoption without a court's consent for official administrative purposes. The department of ~~human~~ job and family services may examine its own papers, books, and records pertaining to a placement or adoption, or such papers, books, and records of an agency, without a court's consent for official administrative, certification, and eligibility determination purposes.

(C) The petition, the interlocutory order, the final decree of adoption, and other adoption proceedings shall be recorded in a book kept for such purposes and shall be separately indexed. The book shall be a part of the records of the court, and all consents, affidavits, and other papers shall be properly filed.

(D) All forms that pertain to the social or medical histories of the biological parents of an adopted person and that were completed pursuant to section 3107.09 or 3107.091 of the Revised Code shall be filed only in the permanent record kept by the court. During the minority of the adopted person, only the adoptive parents of the person may inspect the forms. When an adopted person reaches majority, only the adopted person may inspect the forms. Under the circumstances described in this division, an adopted person or the adoptive parents are entitled to inspect the forms upon requesting the clerk of the court to produce them.

(E)(1) The department of ~~human~~ job and family services shall prescribe a form that permits any person who is authorized by division (D) of this section to inspect forms that pertain to the social or medical histories of the biological parents and that were completed pursuant to section 3107.09 or 3107.091 of the Revised Code to request notice if any correction or expansion of either such history, made pursuant to division (D) of section 3107.09 of the Revised Code, is made a part of the permanent record kept by the court. The form shall be designed to facilitate the provision of the information and statements described in division (E)(3) of this section. The department shall provide copies of the form to each court. A court shall provide a copy of the request form to each adoptive parent when a final

decree of adoption is entered and shall explain to each adoptive parent at that time that an adoptive parent who completes and files the form will be notified of any correction or expansion of either the social or medical history of the biological parents of the adopted person made during the minority of the adopted person that is made a part of the permanent record kept by the court, and that, during the adopted person's minority, the adopted person may inspect the forms that pertain to those histories. Upon request, the court also shall provide a copy of the request form to any adoptive parent during the minority of the adopted person and to an adopted person who has reached the age of majority.

(2) Any person who is authorized to inspect forms pursuant to division (D) of this section who wishes to be notified of corrections or expansions pursuant to division (D) of section 3107.09 of the Revised Code that are made a part of the permanent record kept by the court shall file with the court, on a copy of the form prescribed by the department of ~~human~~ job and family services pursuant to division (E)(1) of this section, a request for such notification that contains the information and statements required by division (E)(3) of this section. A request may be filed at any time if the person who files the request is authorized at that time to inspect forms that pertain to the social or medical histories.

(3) A request for notification as described in division (E)(2) of this section shall contain all of the following information:

(a) The adopted person's name and mailing address at that time;

(b) The name of each adoptive parent, and if the adoptive person is a minor at the time of the filing of the request, the mailing address of each adoptive parent at that time;

(c) The adopted person's date of birth;

(d) The date of entry of the final decree of adoption;

(e) A statement requesting the court to notify the person who files the request, at the address provided in the request, if any correction or expansion of either the social or medical history of the biological parents is made a part of the permanent record kept by the court;

(f) A statement that the person who files the request is authorized, at the time of the filing, to inspect the forms that pertain to the social and medical histories of the biological parents;

(g) The signature of the person who files the request.

(4) Upon the filing of a request for notification in accordance with division (E)(2) of this section, the clerk of the court in which it is filed immediately shall insert the request in the permanent record of the case. A person who has filed the request and who wishes to update it with respect to

a new mailing address may inform the court in writing of the new address. Upon its receipt, the court promptly shall insert the new address into the permanent record by attaching it to the request. Thereafter, any notification described in this division shall be sent to the new address.

(5) Whenever a social or medical history of a biological parent is corrected or expanded and the correction or expansion is made a part of the permanent record kept by the court, the court shall ascertain whether a request for notification has been filed in accordance with division (E)(2) of this section. If such a request has been filed, the court shall determine whether, at that time, the person who filed the request is authorized, under division (D) of this section, to inspect the forms that pertain to the social or medical history of the biological parents. If the court determines that the person who filed the request is so authorized, it immediately shall notify the person that the social or medical history has been corrected or expanded, that it has been made a part of the permanent record kept by the court, and that the forms that pertain to the records may be inspected in accordance with division (D) of this section.

Sec. 3107.39. As used in sections 3107.39 to 3107.44 of the Revised Code:

(A) "Adopted person" means a person who, as a minor, was adopted and who, prior to ~~the effective date of this amendment~~ September 18, 1996, became available or potentially available for adoption. For the purpose of this division, a person was available or potentially available for adoption prior to ~~the effective date of this amendment~~ September 18, 1996, if, prior to that date, either of the following occurred:

(1) At least one of the person's biological parents executed consent to person's adoption;

(2) A probate court entered a finding that the consent of at least one of the person's biological parents to the person's adoption was not needed as determined pursuant to section 3107.07 of the Revised Code.

(B) "Adopted sibling" means an adopted person who has a biological sibling.

(C) "Agency" means any public or private organization that is certified by the department of ~~human~~ job and family services to place minors for adoption.

(D) "Biological parent" means a parent, by birth, of an adopted person.

(E) "Biological sibling" means a sibling, by birth, of an adopted person.

(F) "Effective release" means a release that is filed by a biological parent or biological sibling of an adopted person, and with respect to which a withdrawal of release has not been filed by that biological parent or

biological sibling.

(G) "File of releases" means the file that is established by the department of health pursuant to division (C) of section 3107.40 of the Revised Code.

(H) "Final decree of adoption" includes an interlocutory order of adoption that has become final.

(I) "Identifying information" has the same meaning as in section 3107.01 of the Revised Code.

(J) "Offspring" means a child, by birth, of a person.

(K) "Petition for release of information" means the petition filed in a probate court in accordance with section 3107.41 of the Revised Code.

(L) "Release" means the form that is filed, pursuant to division (B) of section 3107.40 of the Revised Code, by a biological parent or biological sibling with the department of health and that contains the information, statement, and matter required by division (B)(3) of that section.

(M) "Withdrawal of release" means the form that is filed, pursuant to division (D) of section 3107.40 of the Revised Code, by a biological parent or biological sibling with the department of health and that contains the information, statement, and matter required by division (D)(3) of that section.

Sec. 3109.05. (A)(1) In a divorce, dissolution of marriage, legal separation, or child support proceeding, the court may order either or both parents to support or help support their children, without regard to marital misconduct. In determining the amount reasonable or necessary for child support, including the medical needs of the child, the court shall comply with sections 3113.21 to 3113.219 of the Revised Code.

(2) The court, in accordance with sections 3113.21 and 3113.217 of the Revised Code, shall include in each support order made under this section the requirement that one or both of the parents provide for the health care needs of the child to the satisfaction of the court, and the court shall include in the support order a requirement that all support payments be made through the division of child support in the department of ~~human~~ job and family services.

(3) Each order for child support made or modified under this section shall include as part of the order a general provision, as described in division (A)(1) of section 3113.21 of the Revised Code, requiring the withholding or deduction of income or assets of the obligor under the order as described in division (D) or (H) of section 3113.21 of the Revised Code, or another type of appropriate requirement as described in division (D)(3), (D)(4), or (H) of that section, to ensure that withholding or deduction from the income or

assets of the obligor is available from the commencement of the support order for collection of the support and of any arrearages that occur; a statement requiring both parents to notify the child support enforcement agency in writing of their current mailing address; current residence address, current residence telephone number, current driver's license number, and any changes to that information, and a notice that the requirement to notify the agency of all changes to that information continues until further notice from the court. The court shall comply with sections 3113.21 to 3113.219 of the Revised Code when it makes or modifies an order for child support under this section.

(B) The juvenile court has exclusive jurisdiction to enter the orders in any case certified to it from another court.

(C) If any person required to pay child support under an order made under division (A) of this section on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt and, on or after July 1, 1992, shall assess interest on any unpaid amount of child support pursuant to section 3113.219 of the Revised Code.

(D) The court shall not authorize or permit the escrowing, impoundment, or withholding of any child support payment ordered under this section or any other section of the Revised Code because of a denial of or interference with a right of companionship or visitation granted in an order issued under this section, section 3109.051, 3109.11, 3109.12, or any other section of the Revised Code, or as a method of enforcing the specific provisions of any such order dealing with visitation.

(E) Notwithstanding section 3109.01 of the Revised Code, if a court issues a child support order under this section, the order shall remain in effect beyond the child's eighteenth birthday as long as the child continuously attends on a full-time basis any recognized and accredited high school or the order provides that the duty of support of the child continues beyond the child's eighteenth birthday. Except in cases in which the order provides that the duty of support continues for any period after the child reaches age nineteen, the order shall not remain in effect after the child reaches age nineteen. Any parent ordered to pay support under a child support order issued under this section shall continue to pay support under the order, including during seasonal vacation periods, until the order

minates.

Sec. 3109.15. There is hereby created within the department of ~~human~~ job and family services the children's trust fund board consisting of thirteen members. The director of health and the director of ~~human~~ job and family services shall be members of the board. Seven public members shall be appointed by the governor. These members shall be persons with demonstrated knowledge in programs for children, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of the following categories: the educational community; the legal community; the social work community; the medical community; the voluntary sector; and professional providers of child abuse and child neglect services. Five of these members shall be residents of counties where the population exceeds four hundred thousand; no more than one such member shall be a resident of the same county. Two members of the board shall be members of the house of representatives appointed by the speaker of the house of representatives and shall be members of two different political parties. Two members of the board shall be members of the senate appointed by the president of the senate and shall be members of two different political parties. All members of the board appointed by the speaker of the house of representatives or the president of the senate shall serve until the expiration of the sessions of the general assembly during which they were appointed. They may be reappointed to an unlimited number of successive terms of two years at the pleasure of the speaker of the house of representatives or president of the senate. Of the public members first appointed, three shall serve for terms of four years; two shall serve for terms of three years; and two shall serve for terms of two years. Thereafter, public members shall serve terms of three years. Each member shall serve until ~~his~~ the member's successor is appointed. No public member may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner as the original appointment.

Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in ~~his~~ the member's own behalf.

Each member of the board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred ~~by him~~ in the ~~performace~~ PERFORMANCE of ~~his~~ official duties.

The speaker of the house of representatives and the president of the senate shall jointly appoint the board ~~chairman~~ chairperson from among the legislative members of the board.

This section is an interim section effective until January 1, 2001.

Sec. 3109.16. The children's trust fund board, upon the recommendation of the director of ~~human~~ job and family services, shall approve the employment of the staff that will administer the programs of the board. The department of ~~human~~ job and family services shall provide budgetary, procurement, accounting, and other related management functions for the board. An amount not to exceed three per cent of the total amount of fees deposited in the children's trust fund in each fiscal year may be used for costs directly related to these administrative functions of the department. With the approval of the board, an amount exceeding three per cent, but not exceeding four per cent, of the total amount of fees credited to the fund in each fiscal year may be used for costs directly related to these administrative functions.

The board shall meet at the call of the ~~chairman~~ chairperson to conduct its official business. All business transactions of the board shall be conducted in public meetings. The votes of at least seven board members are required to approve the state plan for the allocation of funds from the children's trust fund.

The board may apply for and accept federal funds for the purposes of sections 3109.13 to 3109.18 of the Revised Code. In addition, the board may accept gifts and donations from any source, including individuals, philanthropic foundations or organizations, corporations, or corporation endowments. The acceptance and use of federal funds shall not entail any commitment or pledge of state funds, nor obligate the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.

This section is an interim section effective until January 1, 2001.

Sec. 3109.18. (A) Each board of county commissioners in the following counties shall establish a child abuse and child neglect advisory board: Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit. The boards of county commissioners of the remaining counties may establish a child abuse and child neglect advisory board or the boards of county commissioners of two or more contiguous counties may form a multicounty district to be served by a multicounty child abuse and child neglect advisory board.

Each child abuse and child neglect advisory board shall consist of an odd number of members who represent both public and private child serving agencies, and persons with demonstrated knowledge in programs for

children, such as persons from the educational community, parent groups, juvenile justice, and the medical community. Of the members first appointed, at least one shall serve for a term of three years, at least one for a term of two years, and at least one for a term of one year. Thereafter, each member shall serve a term of three years. Each member shall serve until ~~his~~ the member's successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner as the original appointment. Each board shall meet at least quarterly.

Each board of county commissioners may incur reasonable costs not to exceed three per cent of the funding allocated to the county or district under section 3109.17 of the Revised Code, for the purpose of carrying out the functions of the advisory board.

(B) Annually, each child abuse and child neglect advisory board shall:

(1) Give effective public notice to all potential applicants about the availability of funds from the children's trust fund. The notification shall include an estimate of the amount of money available for grants within each county or district, the date of at least one public hearing, the deadline for submitting applications for grants, and information on obtaining a copy of the application form;

(2) Review all applications received using criteria established by the children's trust fund board under section 3109.17 of the Revised Code and any criteria developed by the child abuse and child neglect advisory board, and develop an allocation plan for the county or district;

(3) Submit the allocation plan to the children's trust fund board, with evidence of compliance with this section and with section 3109.17 of the Revised Code;

(4) Upon notification by the children's trust fund board that the allocation plan is in compliance with the criteria established by the boards, monitor the operation of the allocation plan;

(5) Establish procedures for evaluating programs in the county or district, including reporting requirements for grant recipients.

Applicants from counties that are not served by a child abuse and child neglect advisory board shall apply for funding to the children's trust fund board.

(C) A recipient of a grant from the children's trust fund shall use the grant funds only to fund child abuse and child neglect prevention programs. A recipient of a grant may use the grant funds only for the expansion of existing programs or the creation of new programs.

Any grant funds that are not spent by the counties or the recipient of the funds within the time specified by the terms of the grant shall be returned to

the treasurer of state. The treasurer of state shall deposit such unspent moneys into the children's trust fund to be spent for purposes consistent with the state plan adopted under section 3109.17 of the Revised Code.

(D) Applications for grants from the children's trust fund shall be on forms prescribed by the department of ~~human~~ job and family services and, after any review required by division (B) of this section, shall be submitted to the children's trust fund board by the date required in the schedule established by rules adopted by the board. Each application shall include at least the following:

(1) Information showing that the applicant meets the eligibility requirements of section 3109.17 of the Revised Code;

(2) If the applicant is a corporation, a list of the trustees of the corporation;

(3) A specification of the amount of money requested;

(4) A summary of the program that the applicant intends to provide with funds from the grant;

(5) Any other information required by rules adopted by the children's trust fund board.

Each recipient of a grant from the children's trust fund shall file two copies of an annual report with the county or district advisory board. If no such board serves the recipient's county of residence, the recipient shall file two copies of an annual report with the children's trust fund board. The annual report shall describe the program provided by the recipient, indicate the manner in which the grant funds were expended, include the results of an independent audit of the funds, and include other information that the granting board or the department may require. If a public agency is a recipient of a grant, the results of the most recent audit of the funds conducted under Chapter 117. of the Revised Code shall be considered to be the results of the independent audit of the funds that must be included in the annual report. The granting boards shall annually file one copy of each annual report with the department, which shall compile the reports received pursuant to this section.

This section is an interim section effective until January 1, 2001.

Sec. 3109.401. (A) The general assembly finds the following:

(1) That the parent and child relationship is of fundamental importance to the welfare of a child, and that the relationship between a child and each parent should be fostered unless inconsistent with the child's best interests;

(2) That parents have the responsibility to make decisions and perform other parenting functions necessary for the care and growth of their children;

(3) That the courts, when allocating parenting functions and

sponsibilities with respect to the child in a divorce, dissolution, legal separation, annulment, or any other proceeding addressing the allocation of parental rights and responsibilities, must determine the child's best interests;

(4) That the courts and parents must take into consideration the following general principles when allocating parental rights and responsibilities and developing appropriate terms for parenting plans:

(a) Children are served by a parenting arrangement that best provides for a child's safety, emotional growth, health, stability, and physical care.

(b) Exposure of the child to harmful parental conflict should be minimized as much as possible.

(c) Whenever appropriate, parents should be encouraged to meet their responsibilities to their children through agreements rather than by relying on judicial intervention.

(d) When a parenting plan provides for mutual decision-making responsibility by the parents but they are unable to make decisions mutually, they should make a good faith effort to utilize the mediation process as required by the parenting plan.

(e) In apportioning between the parents the daily physical living arrangements of the child and the child's location during legal and school holidays, vacations, and days of special importance, a court should not impose any type of standard schedule unless a standard schedule meets the needs of the child better than any proposed alternative parenting plan.

(B) It is, therefore, the purpose of Chapter 3109. of the Revised Code, when it is in the child's best interest, to foster the relationship between the child and each parent when a court allocates parental rights and responsibilities with respect to the child in a divorce, dissolution, legal separation, annulment, or any other proceeding addressing the allocation of parental rights and responsibilities.

(C) There is hereby created the task force on family law and children consisting of twenty-four members. The Ohio state bar association shall appoint three members who shall be attorneys with extensive experience in the practice of family law. The Ohio association of domestic relations judges shall appoint three members who shall be domestic relations judges. The Ohio association of juvenile and family court judges shall appoint three members who shall be juvenile or family court judges. The chief justice of the supreme court shall appoint eight members, three of whom shall be persons who practice in the field of family law mediation, two of whom shall be persons who practice in the field of child psychology, one of whom shall be a person who represents parent and child advocacy organizations, one of whom shall be a person who provides parenting education services,

and one of whom shall be a magistrate employed by a domestic relations or juvenile court. The speaker of the house of representatives shall appoint two members who shall be members of the house of representatives and who shall be from different political parties. The president of the senate shall appoint two members who shall be members of the senate and who shall be from different political parties. The governor shall appoint two members who shall represent child caring agencies. One member shall be the director of ~~human~~ job and family services or the director's designee. The chief justice shall designate one member of the task force to chair the task force.

The appointing authorities and persons shall make appointments to the task force on family law and children within thirty days after the effective date of this section. Section 101.84 of the Revised Code does not apply to the task force.

(D) The task force on family law and children shall do all of the following:

(1) Appoint and fix the compensation of any technical, professional, and clerical employees and perform any services that are necessary to carry out the powers and duties of the task force on family law and children. All employees of the task force shall serve at the pleasure of the task force.

(2) By December 31, 1999, submit to the speaker and minority leader of the house of representatives and to the president and the minority leader of the senate a report of its findings and recommendations on how to create a more civilized and constructive process for the parenting of children whose parents do not reside together. The recommendations shall propose a system to do all of the following:

(a) Put children first;

(b) Provide families with choices before they make a decision to obtain or finalize a divorce, dissolution, legal separation, or annulment;

(c) Redirect human services to intervention and prevention, rather than supporting the casualties of the current process;

(d) Avoid needless conflict between the participants;

(e) Encourage problem solving among the participants;

(f) Force the participants to act responsibly;

(g) Shield both the participants and their children from lasting emotional damage.

(3) Gather information on and study the current state of family law in this state;

(4) Collaborate and consult with entities engaged in family and children's issues including, but not limited to, the Ohio association of child caring agencies, the Ohio family court feasibility study, and the Ohio courts

futures commission;

(5) Utilize findings and outcomes from pilot projects conducted by the Ohio family court feasibility study to explore alternatives in creating a more civilized and constructive process for the parenting of children whose parents do not reside together with an emphasis on the areas of mediation and obtaining visitation compliance.

(E) Courts of common pleas shall cooperate with the task force on family law and children in the performance of the task force's duties described in division (D) of this section.

Sec. 3111.03. (A) A man is presumed to be the natural father of a child under any of the following circumstances:

(1) The man and the child's mother are or have been married to each other, and the child is born during the marriage or is born within three hundred days after the marriage is terminated by death, annulment, divorce, or dissolution or after the man and the child's mother separate pursuant to a separation agreement.

(2) The man and the child's mother attempted, before the child's birth, to marry each other by a marriage that was solemnized in apparent compliance with the law of the state in which the marriage took place, the marriage is or could be declared invalid, and either of the following applies:

(a) The marriage can only be declared invalid by a court and the child is born during the marriage or within three hundred days after the termination of the marriage by death, annulment, divorce, or dissolution;

(b) The attempted marriage is invalid without a court order and the child is born within three hundred days after the termination of cohabitation.

(3) The man and the child's mother, after the child's birth, married or attempted to marry each other by a marriage solemnized in apparent compliance with the law of the state in which the marriage took place, and either of the following occurs:

(a) The man has acknowledged his paternity of the child in a writing sworn to before a notary public;

(b) The man is required to support the child by a written voluntary promise or by a court order.

(4) An acknowledgment of paternity filed with the division of child support in the department of ~~human~~ job and family services becomes final pursuant to section 2151.232, 3111.211, or 5101.314 of the Revised Code.

(5) A court or administrative body, pursuant to section 3111.09, 3111.22, or 3115.52 of the Revised Code or otherwise, has ordered that genetic tests be conducted or the natural mother and alleged natural father voluntarily agreed to genetic testing pursuant to former section 3111.21 of

the Revised Code to determine the father and child relationship and the results of the genetic tests indicate a probability of ninety-nine per cent or greater that the man is the biological father of the child.

(B)(1) A presumption arises under division (A)(3) of this section regardless of the validity or invalidity of the marriage of the parents. A presumption that arises under this section can only be rebutted by clear and convincing evidence that includes the results of genetic testing, except that a presumption that arises under division (A)(1) or (2) of this section is conclusive as provided in division (A) of section 3111.37 of the Revised Code and cannot be rebutted. If two or more conflicting presumptions arise under this section, the court shall determine, based upon logic and policy considerations, which presumption controls. If a determination described in division (B)(3) of this section conflicts with a presumption that arises under this section the determination is controlling.

(2) Notwithstanding division (B)(1) of this section, a presumption that arises under division (A)(4) of this section may only be rebutted as provided in division (B)(2) of section 5101.314 of the Revised Code.

(3) Notwithstanding division (A)(5) of this section, a final and enforceable determination finding the existence of a father and child relationship pursuant to former section 3111.21 or section 3111.22 of the Revised Code that is based on the results of genetic tests ordered pursuant to either of those sections, is not a presumption.

(C) A presumption of paternity that arose pursuant to this section prior to ~~the effective date of this amendment~~ January 1, 1998, shall remain valid on and after that date unless rebutted pursuant to division (B) of this section. This division does not apply to a determination described in division (B)(3) of this section.

Sec. 3111.06. (A) The juvenile court has original jurisdiction of any action authorized under sections 3111.01 to 3111.19 of the Revised Code. An action may be brought under those sections in the juvenile court of the county in which the child, the child's mother, or the alleged father resides or is found or, if the alleged father is deceased, of the county in which proceedings for the probate of the alleged father's estate have been or can be commenced, or of the county in which the child is being provided support by the county department of ~~human~~ job and family services of that county. An action pursuant to sections 3111.01 to 3111.19 of the Revised Code to object to an administrative order issued pursuant to former section 3111.21 or section 3111.22 of the Revised Code determining the existence or nonexistence of a parent and child relationship that has not become final and enforceable, may be brought only in the juvenile court of the county in

ich the child support enforcement agency that issued the order is located. If an action for divorce, dissolution, or legal separation has been filed in a court of common pleas, that court of common pleas has original jurisdiction to determine if the parent and child relationship exists between one or both of the parties and any child alleged or presumed to be the child of one or both of the parties.

(B) A person who has sexual intercourse in this state submits to the jurisdiction of the courts of this state as to an action brought under sections 3111.01 to 3111.19 of the Revised Code with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by the Rules of Civil Procedure, personal jurisdiction may be acquired by personal service of summons outside this state or by certified mail with proof of actual receipt.

Sec. 3111.07. (A) The natural mother, each man presumed to be the father under section 3111.03 of the Revised Code, each man alleged to be the natural father, and, if the party who initiates the action is a recipient of public assistance as defined in section 3111.04 of the Revised Code or if the responsibility for the collection of support for the child who is the subject of the action has been assumed by the child support enforcement agency under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, the child support enforcement agency of the county in which the child resides shall be made parties to the action brought pursuant to sections 3111.01 to 3111.19 of the Revised Code or, if not subject to the jurisdiction of the court, shall be given notice of the action pursuant to the Rules of Civil Procedure and shall be given an opportunity to be heard. The court may align the parties. The child shall be made a party to the action unless a party shows good cause for not doing so. Separate counsel shall be appointed for the child if the court finds that the child's interests conflict with those of the mother.

If the person bringing the action knows that a particular man is not or, based upon the facts and circumstances present, could not be the natural father of the child, the person bringing the action shall not allege in the action that the man is the natural father of the child and shall not make the man a party to the action.

(B) If an action is brought pursuant to sections 3111.01 to 3111.19 of the Revised Code and the child to whom the action pertains is or was being provided support by the department of ~~human~~ job and family services, a county department of ~~human~~ job and family services, or another public agency, the department, county department, or agency may intervene for purposes of collecting or recovering the support.

Sec. 3111.09. (A)(1) In any action instituted under sections 3111.01 to 3111.19 of the Revised Code, the court, upon its own motion, may order and, upon the motion of any party to the action, shall order the child's mother, the child, the alleged father, and any other person who is a defendant in the action to submit to genetic tests. Instead of or in addition to genetic testing ordered pursuant to this section, the court may use the following information to determine the existence of a parent and child relationship between the child and the child's mother, the alleged father, or another defendant:

(a) A DNA record of the child's mother, the child, the alleged father, or any other defendant that is stored in the DNA database pursuant to section 109.573 of the Revised Code;

(b) Results of genetic tests conducted on the child, the child's mother, the alleged father, or any other defendant pursuant to former section 3111.21 or section 3111.22 of the Revised Code.

If the court intends to use the information described in division (A)(1)(a) of this section, it shall order the superintendent of the bureau of criminal identification and investigation to disclose the information to the court. If the court intends to use the genetic test results described in division (A)(1)(b) of this section, it shall order the agency that ordered the tests to provide the report of the genetic test results to the court.

(2) If the child support enforcement agency is not made a party to the action, the clerk of the court shall schedule the genetic testing no later than thirty days after the court issues its order. If the agency is made a party to the action, the agency shall schedule the genetic testing in accordance with the rules adopted by the ~~department~~ director of ~~human~~ job and family services pursuant to section 2301.35 of the Revised Code. If the alleged father of a child brings an action under sections 3111.01 to 3111.19 of the Revised Code and if the mother of the child willfully fails to submit to genetic testing or if the mother is the custodian of the child and willfully fails to submit the child to genetic testing, the court, on the motion of the alleged father, shall issue an order determining the existence of a parent and child relationship between the father and the child without genetic testing. If the mother or other guardian or custodian of the child brings an action under sections 3111.01 to 3111.19 of the Revised Code and if the alleged father of the child willfully fails to submit himself to genetic testing or, if the alleged father is the custodian of the child and willfully fails to submit the child to genetic testing, the court shall issue an order determining the existence of a parent and child relationship between the father and the child without genetic testing. If a party shows good cause for failing to submit to genetic

testing or for failing to submit the child to genetic testing, the court shall not consider the failure to be willful.

(3) Except as provided in division (A)(4) of this section, any fees charged for the tests shall be paid by the party that requests them, unless the custodian of the child is represented by the child support enforcement agency in its role as the agency providing enforcement of child support orders under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, the custodian is a participant in Ohio works first under Chapter 5107. of the Revised Code for the benefit of the child, or the defendant in the action is found to be indigent, in which case the child support enforcement agency shall pay the costs of genetic testing. The child support enforcement agency, within guidelines contained in that federal law, shall use funds received pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, to pay the fees charged for the tests.

Except as provided in division (A)(4) of this section, if there is a dispute as to who shall pay the fees charged for genetic testing, the child support enforcement agency shall pay the fees, but neither the court nor the agency shall delay genetic testing due to a dispute as to who shall pay the genetic testing fees. The child support enforcement agency or the person who paid the fees charged for the genetic testing may seek reimbursement for the genetic testing fees from the person against whom the court assesses the costs of the action. Any funds used in accordance with this division by the child support enforcement agency shall be in addition to any other funds that the agency is entitled to receive as a result of any contractual provision for specific funding allocations for the agency between the county, the state, and the federal government.

(4) If, pursuant to former section 3111.21 or section 3111.22 of the Revised Code, the agency has previously conducted genetic tests on the child, child's mother, alleged father, or any other defendant and the current action pursuant to section 3111.01 to 3111.19 of the Revised Code has been brought to object to the result of those previous tests, the agency shall not be required to pay the fees for conducting genetic tests pursuant to this section on the same persons.

(B)(1) The genetic tests shall be made by qualified examiners who are authorized by the court or the department of ~~human~~ job and family services. An examiner conducting a genetic test, upon the completion of the test, shall send a complete report of the test results to the clerk of the court that ordered the test or, if the agency is a party to the action, to the child support enforcement agency of the county in which the court that ordered the test is

located.

(2) If a court orders the superintendent of the bureau of criminal identification and investigation to disclose information regarding a DNA record stored in the DNA database pursuant to section 109.573 of the Revised Code, the superintendent shall send the information to the clerk of the court that issued the order or, if the agency is a party to the action, to the child support enforcement agency of the county in which the court that issued the order is located.

(3) If a court orders the child support enforcement agency to provide the report of the genetic test results obtained pursuant to former section 3111.21 or section 3111.22 of the Revised Code, the agency shall send the information to the person or government entity designated by the court that issued the order.

(4) The clerk, agency, or person or government entity under division (B)(3) of this section that receives a report or information pursuant to division (B)(1), (2), or (3) of this section shall mail a copy of the report or information to the attorney of record for each party or, if a party is not represented by an attorney, to the party. The clerk, agency, or person or government entity under division (B)(3) of this section that receives a copy of the report or information shall include with the report or information sent to an attorney of record of a party or a party a notice that the party may object to the admission into evidence of the report or information by filing a written objection as described in division (D) of section 3111.12 of the Revised Code with the court that ordered the tests or ordered the disclosure of the information no later than fourteen days after the report or information was mailed to the attorney of record or to the party. The examiners may be called as witnesses to testify as to their findings. Any party may demand that other qualified examiners perform independent genetic tests under order of the court. The number and qualifications of the independent examiners shall be determined by the court.

(C) Nothing in this section prevents any party to the action from producing other expert evidence on the issue covered by this section, but, if other expert witnesses are called by a party to the action, the fees of these expert witnesses shall be paid by the party calling the witnesses and only ordinary witness fees for these expert witnesses shall be taxed as costs in the action.

(D) If the court finds that the conclusions of all the examiners are that the alleged father is not the father of the child, the court shall enter judgment that the alleged father is not the father of the child. If the examiners disagree in their findings or conclusions, the court shall determine the father of the

child based upon all the evidence.

(E) As used in sections 3111.01 to 3111.29 of the Revised Code:

(1) "Genetic tests" and "genetic testing" mean either of the following:

(a) Tissue or blood tests, including tests that identify the presence or absence of common blood group antigens, the red blood cell antigens, human lymphocyte antigens, serum enzymes, serum proteins, or genetic markers;

(b) Deoxyribonucleic acid typing of blood or buccal cell samples.

"Genetic test" and "genetic testing" may include the typing and comparison of deoxyribonucleic acid derived from the blood of one individual and buccal cells of another.

(2) "DNA record" and "DNA database" have the same meanings as in section 109.573 of the Revised Code.

Sec. 3111.20. (A) As used in sections 3111.20 to 3111.29 of the Revised Code:

(1) "Obligor" means the person required to pay support under an administrative support order.

(2) "Obligee" means the person entitled to receive the support payments under an administrative support order.

(3) "Administrative support order" means an administrative order for the payment of support that is issued by a child support enforcement agency.

(4) "Support" means child support.

(5) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes, but is not limited to, wages, salary, commissions, bonuses, draws against commissions, profit sharing, and vacation pay.

(6) "Financial institution" means a bank, savings and loan association, or credit union, or a regulated investment company or mutual fund in which a person who is required to pay support has funds on deposit that are not exempt under the law of this state or the United States from execution, attachment, or other legal process.

(7) "Title IV-D case" means any case in which the child support enforcement agency is enforcing the support order pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended.

(8) "Payor" means any person or entity that distributes income to an obligor including the obligor, if the obligor is self-employed; an employer; an employer that is paying the obligor's workers' compensation benefits; the public employees retirement board; the governing entity of any municipal retirement system; the board of trustees of the Ohio police and fire pension fund; the state teachers retirement board; the school employees retirement

board; the state highway patrol retirement board; a person paying or otherwise distributing an obligor's income; the bureau of workers' compensation; or any other person or entity, except the ~~bureau~~ director of ~~employment~~ job and family services with respect to unemployment compensation benefits paid pursuant to Chapter 4141. of the Revised Code.

(9) "Income" means any form of monetary payment including personal earnings; unemployment compensation benefits to the extent permitted by, and in accordance with, section 2301.371 of the Revised Code, division (D)(4) of section 4141.28 of the Revised Code, and federal law governing the ~~bureau~~ department of ~~employment~~ job and family services; workers' compensation payments; pensions; annuities; allowances; retirement benefits; disability or sick pay; insurance proceeds; lottery prize awards; federal, state, or local government benefits to the extent that the benefits can be withheld or deducted under the law governing the benefits; any form of trust fund or endowment; lump-sum payments; and any other monetary payments.

(B) A man who is presumed to be the natural father of a child pursuant to section 3111.03 of the Revised Code assumes the parental duty of support with respect to the child.

(C) Notwithstanding section 3109.01 of the Revised Code, a parent's duty of support for a child shall continue beyond the age of majority as long as the child continuously attends on a full-time basis any recognized and accredited high school or a court-issued child support order provides that the duty of support continues beyond the age of majority. Except in cases in which a child support order requires the duty of support to continue for any period after the child reaches nineteen years of age, the duty does not continue after the child reaches nineteen years of age. The parental duty of support shall continue during seasonal vacations.

A parent, guardian, or legal custodian of a child, the person with whom the child resides, or the child support enforcement agency of the county in which the child, parent, guardian, or legal custodian of the child resides may file a complaint pursuant to section 2151.231 of the Revised Code in the juvenile court of that county requesting the court to order a parent who neglects or does not assume the parental duty of support to pay an amount for the support of the child and to provide for the health care needs of the child, may contact a child support enforcement agency for assistance in obtaining the order, or may request an administrative officer of a child support enforcement agency to issue an administrative order for the payment of child support and providing for the health care needs of the child pursuant to division (D) of this section. Upon the filing of the complaint or the

making of the request, the court shall issue an order requiring the payment of support for the child and providing for the health care needs of the child, pursuant to section 2151.231 of the Revised Code, or the administrative officer, pursuant to division (D) of this section, shall issue an order requiring the payment of support for the child and providing for the health care needs of the child.

A party to a request made under this division may raise the issue of the existence or nonexistence of a parent-child relationship between the presumed natural father and the child unless the presumption is based on acknowledgment of paternity that has become final pursuant to section 2151.232, 3111.211, or 5101.314 of the Revised Code. If a request is made for an administrative order providing for support and health care needs pursuant to division (D) of this section and the issue of the existence or nonexistence of a parent-child relationship is raised, the administrative officer shall treat the request as a request made pursuant to section 3111.22 of the Revised Code and determine the issue pursuant to that section. An administrative order issued pursuant to division (D) of this section does not preclude a party from requesting a determination of the issue of the existence or nonexistence of a parent-child relationship pursuant to this chapter if the issue was not determined with respect to the party in the proceedings conducted pursuant to division (D) of this section or pursuant to an acknowledgment of paternity that has become final under section 2151.232, 3111.211, or 5101.314 of the Revised Code. An order issued pursuant to division (D) of this section shall remain effective until a final and enforceable determination is made pursuant to this chapter that a parent-child relationship does not exist between the presumed natural father and the child or until the occurrence of an event described in division (E)(4)(a) of section 3111.23 of the Revised Code that requires the order to be terminated.

(D) If a request is made pursuant to division (C) of this section or division (A) of section 3111.211 of the Revised Code for an administrative order requiring the payment of child support and providing for the health care needs of the child, the administrative officer shall schedule an administrative hearing to determine, in accordance with sections 3111.23 to 3111.29 and 3113.215 of the Revised Code, the amount of child support either parent is required to pay, the method of paying that child support, and the method of providing for the child's health care. The hearing shall be held not later than sixty days after the request is made pursuant to division (A) of this section or division (A) of section 3111.211 of the Revised Code nor earlier than thirty days after the officer gives the mother and father of the

child notice of the action. When an administrative officer issues an administrative order for the payment of support and provision for the child's health care, all of the following apply:

(1) The administrative support order shall require periodic payments of support that may vary in amount, except that, if it is in the best interest of the child, the administrative officer may order a lump sum payment or the purchase of an annuity in lieu of periodic payments of support.

(2) The administrative support order shall require the parents to provide for the health care needs of the child in accordance with section 3111.241 of the Revised Code.

The administrative support order shall include a notice stating that the mother or the father may object to the administrative order by bringing an action for the payment of support and provision for the child's health care under section 2151.321 of the Revised Code in the juvenile court of the county in which the child or the guardian or legal custodian of the child resides, that the action may be brought no later than thirty days after the date of the issuance of the administrative support order, and that, if neither the mother nor the father brings an action for the payment of support and provision for the child's health care within that thirty-day period, the administrative support order is final and enforceable by a court and may be modified and enforced only as provided in sections 3111.20 to 3111.28 and 3113.21 to 3113.219 of the Revised Code.

Sec. 3111.21. If the natural mother and alleged father of a child sign an acknowledgment of paternity affidavit prepared pursuant to section 5101.324 of the Revised Code with respect to that child at a child support enforcement agency, the agency shall provide a notary public to notarize the acknowledgment. The agency shall send a signed and notarized acknowledgment of paternity to the division of child support in the department of ~~human~~ job and family services pursuant to section 5101.314 of the Revised Code. The agency shall send the acknowledgment no later than ten days after it has been signed and notarized. If the agency knows a man is presumed under section 3111.03 of the Revised Code to be the father of the child, the agency shall not notarize or send an acknowledgment with respect to the child pursuant to this section.

Sec. 3111.211. (A) If an acknowledgment has been filed and entered into the birth registry pursuant to section 5101.314 of the Revised Code but has not yet become final, either of the persons who signed the acknowledgment may request that an administrative officer of a child support enforcement agency issue an administrative order pursuant to division (B) of this section for payment of child support and providing for

the health care needs of the child.

A party to a request made under this section may raise the issue of the existence or nonexistence of a parent and child relationship. If a request is made pursuant to this section and the issue of the existence or nonexistence of a parent and child relationship is raised, the administrative officer shall treat the request as a request made pursuant to section 3111.22 of the Revised Code and determine the issue in accordance with that section. The administrative officer shall promptly notify the division of child support in the department of ~~human~~ job and family services that proceedings are being conducted in compliance with section 3111.22 of the Revised Code. On receipt of the notice by the division, the acknowledgment of paternity signed by the parties and filed pursuant to section 5101.314 of the Revised Code shall be considered rescinded.

If the parties do not raise the issue of the existence or nonexistence of a parent and child relationship pursuant to the request made under this section and an administrative order is issued pursuant to division (B) of this section prior to the date the acknowledgment filed and entered on the birth registry under section 5101.314 of the Revised Code becomes final, the acknowledgment shall be considered final as of the date of the issuance of the order. An administrative order issued pursuant to division (B) of this section shall not affect an acknowledgment that becomes final pursuant to section 5101.314 of the Revised Code prior to the issuance of the order.

(B) If a request is made pursuant to division (A) of this section for an administrative order requiring the payment of child support and providing for the health care needs of the child, the administrative officer shall comply with the requirements of division (D) of section 3111.20 of the Revised Code and shall issue a support order in accordance with that division.

Sec. 3111.22. (A)(1) Except as otherwise provided in division (A)(2) of this section, no person may bring an action under sections 3111.01 to 3111.19 of the Revised Code before requesting an administrative determination of the existence or nonexistence of a parent and child relationship from the child support enforcement agency of the county in which the child or the guardian or legal custodian of the child resides.

(2) If the alleged father of a child is deceased and proceedings for the probate of the estate of the alleged father have been or can be commenced, the court with jurisdiction over the probate proceedings shall retain jurisdiction to determine the existence or nonexistence of a parent and child relationship between the alleged father and any child without an administrative determination being requested from a child support enforcement agency. If an action for divorce, dissolution of marriage, or

legal separation, or an action under section 2151.231 of the Revised Code requesting an order requiring the payment of child support and provision for the health care of a child, has been filed in a court of common pleas and a question as to the existence or nonexistence of a parent and child relationship arises, the court in which the original action was filed shall retain jurisdiction to determine the existence or nonexistence of the parent and child relationship without an administrative determination being requested from a child support enforcement agency. If a juvenile court issues a support order under section 2151.231 of the Revised Code relying on a presumption under section 3111.03 of the Revised Code, the juvenile court that issued the support order shall retain jurisdiction if a question as to the existence of a parent and child relationship arises.

(B) Except as provided in division (A)(2) of this section, before a person brings an action pursuant to sections 3111.01 to 3111.19 of the Revised Code to determine the existence or nonexistence of a parent and child relationship, the person shall request the child support enforcement agency of the county in which the child or the guardian or legal custodian of the child resides to determine the existence or nonexistence of a parent and child relationship between the alleged father and the child. If more than one agency receives a request pursuant to this section, the agency that receives the request first shall proceed with the request. The request shall contain all of the following information:

(1) The name, birthdate, and current address of the alleged father of the child;

(2) The name, social security number, and current address of the mother of the child;

(3) The name and last known address of the alleged father of the child;

(4) The name and birthdate of the child.

(C)(1) Upon receiving a request for a determination of the existence or nonexistence of a parent and child relationship in accordance with division (B) of this section, the agency shall assign an administrative officer to consider the request. The administrative officer may schedule a conference with the mother and the alleged father to provide information and the opportunity to sign an acknowledgment of paternity affidavit prepared pursuant to section 5101.324 of the Revised Code. If the mother and alleged father do not sign the affidavit at a conference held by the administrative officer, the administrative officer shall issue an order requiring the child, the mother, and the alleged father to submit to genetic testing. In the order, the agency shall schedule the genetic tests for the mother, alleged father, and child on a date that is no later than forty-five days after the date of

assignment of the administrative officer and shall require the tests to be conducted in accordance with the rules adopted by the ~~department~~ director of ~~human~~ job and family services pursuant to section 2301.35 of the Revised Code.

The agency shall attach a notice to the order and send both in accordance with the Rules of Civil Procedure to the mother and the alleged father. The notice shall state all of the following:

(a) That the agency has been requested to determine the existence of a parent and child relationship between a child and the alleged named father;

(b) The name and birthdate of the child of which the man is alleged to be the natural father;

(c) The name of the mother and the alleged natural father;

(d) The rights and responsibilities of a parent;

(e) That the child, the mother, and the alleged father must submit to genetic testing at the date, time, and place determined by the agency in the order issued pursuant to division (C)(1) of this section;

(f) The administrative procedure for determining the existence of a parent and child relationship;

(g) That if the alleged father or natural mother willfully fails to submit to genetic testing, or the alleged father, natural mother, or the custodian of the child willfully fails to submit the child to genetic testing, the agency shall issue an order that it is inconclusive whether the alleged father is the child's natural father;

(h) That if the alleged father or natural mother willfully fails to submit to genetic testing, or the alleged father, natural mother, or custodian of the child willfully fails to submit the child to genetic testing, they may be found in contempt of court.

(2) The genetic testing shall be conducted by a qualified examiner authorized by the department of ~~human~~ job and family services. On completion of the genetic tests, the examiner shall send a complete report of the test results to the agency. The administrative officer shall do one of the following:

(a) If the results of the genetic testing show a ninety-nine per cent or greater probability that the alleged father is the natural father of the child, the administrative officer of the agency shall issue an administrative order that the alleged father is the father of the child who is the subject of the proceeding.

(b) If the results of genetic testing show less than a ninety-nine per cent probability that the alleged father is the natural father of the child but do not exclude the alleged father from being the natural father of the child, the

administrative officer shall issue an administrative order stating that it is inconclusive whether the alleged father is the natural father of the child.

(c) If the results of the genetic testing exclude the alleged father from being the natural father of the child, the administrative officer shall issue an administrative order that the alleged father is not the father of the child who is the subject of the proceeding.

An administrative officer shall include with any order the officer issues pursuant to division (C)(2)(a) or (c) of this section a notice that contains the information described in division (D) of this section informing the mother, father, and the guardian or legal custodian of the child of the right to object to the order.

(D) When an administrative officer issues an administrative order determining the existence or nonexistence of a parent and child relationship pursuant to division (C)(2)(a) or (c) of this section, the mother, alleged father, and the guardian or legal custodian of the child may object to the determination by bringing, within thirty days after the date the administrative officer issued the order, an action under sections 3111.01 to 3111.19 of the Revised Code in the juvenile court in the county in which the agency that employs the administrative officer is located. If the mother, alleged father, or guardian or legal custodian does not bring an action within that thirty-day period, the administrative order is final and enforceable by a court and may not be challenged in an action or proceeding under Chapter 3111. of the Revised Code.

(E)(1) If an administrative officer issues an administrative order determining the existence of a parent and child relationship between the alleged father and the child pursuant to division (C)(2)(a) of this section, the administrative officer shall schedule an administrative hearing to determine, in accordance with sections 3111.23 to 3111.29 and 3113.215 of the Revised Code, the amount of child support any parent is required to pay, the method of payment of child support, and the method of providing for the child's health care. The hearing shall be held no later than sixty days after the date of the issuance of the order and no earlier than thirty days after the date the administrative officer gives the mother and the father notice of the administrative hearing. When an administrative officer issues an administrative order for the payment of support and provision for the child's health care, all of the following apply:

(a) The administrative support order shall require periodic payments of support that may vary in amount, except that, if it is in the best interest of the child, the administrative officer may order a lump-sum payment or the purchase of an annuity in lieu of periodic payments of support.

(b) The administrative support order shall require the parents to provide for the health care needs of the child in accordance with section 3111.241 of the Revised Code.

(c) The administrative support order shall include a notice informing the mother, father, and the legal guardian or custodian of the child of the right to object to the order and containing the information described in division (E)(2) of this section.

(2) The mother, father, or the legal guardian or custodian of the child may object to the administrative order by bringing an action for the payment of support and provision for the child's health care under section 2151.231 of the Revised Code in the juvenile court of the county in which the agency that employs the administrative officer is located. The action shall be brought no later than thirty days after the date of the issuance of the administrative support order. If neither the mother nor the father brings an action for the payment of support and provision for the child's health care within that thirty-day period, the administrative support order is final and enforceable by a court and may be modified and enforced only as provided in sections 3111.20 to 3111.28 and 3113.21 to 3113.219 of the Revised Code.

(F) If the alleged natural father or the natural mother willfully fails to submit to genetic testing or if either parent or any other person who is the custodian of the child willfully fails to submit the child to genetic testing, the agency shall enter an administrative order stating that it is inconclusive as to whether the alleged natural father is the natural father of the child and shall provide a notice to the parties informing them that an action may be brought under sections 3111.01 to 3111.19 of the Revised Code to establish a parent and child relationship.

(G) Unless the agency has reason to believe that a person named in the order is a potential victim of domestic violence, any order issued pursuant to this section finding the existence of a parent and child relationship shall contain the full names, addresses, and social security numbers of the mother and father of the child and the full name and address of the child. The agency, as part of an order determining the existence of a parent and child relationship issued pursuant to this section, may order the surname of the child subject to the determination to be changed and order the change to be made on the child's birth record consistent with the order if the parties agree to the change.

(H) An administrative support order issued pursuant to section 3111.21 of the Revised Code prior to ~~the effective date of this amendment~~ January 1, 1998, that is in effect on ~~the effective date of this amendment~~ January 1,

998, shall remain in effect on and after ~~the effective date of the amendment~~ January 1, 1998, and shall be considered an administrative support order issued pursuant to this section for all purposes.

(I) As used in this section, "birth record" has the same meaning as in section 3705.01 of the Revised Code.

Sec. 3111.23. (A)(1) If an administrative officer of a child support enforcement agency issues an administrative support order under section 3111.20, 3111.211, or 3111.22 of the Revised Code, the agency shall require the withholding or deduction of an amount of the income or assets of the obligor in accordance with division (B) of this section or require the issuance of an order in accordance with section 3111.231 of the Revised Code to ensure that withholding or deduction from the income or assets of the obligor is available from the commencement of the administrative support order for the collection of the support and any arrearages that occur. The agency shall determine the specific withholding or deduction requirements or other requirement applicable to the obligor under the administrative support order in accordance with division (B) of this section and section 3111.231 of the Revised Code and shall include the specific requirements in the notices described in divisions (A)(2) and (B) of this section or in an order described under section 3111.231 of the Revised Code. Any person required to comply with the withholding or deduction requirements shall determine the manner of withholding or deducting an amount of the income or assets of the obligor in accordance with the specific requirements included in the notices described in those divisions without the need for any amendment to the administrative support order. Any person required to comply with an order described in section 3111.231 of the Revised Code shall comply without the need for any amendment to the administrative order. The agency shall include in an administrative support order under section 3111.20, 3111.211, or 3111.22 of the Revised Code a general provision that states the following:

"All child support ordered by this administrative support order shall be withheld or deducted from the income or assets of the obligor pursuant to a withholding or deduction notice issued in accordance with section 3111.23 of the Revised Code or a withdrawal directive issued pursuant to section 3113.214 of the Revised Code and shall be forwarded to the obligee in accordance with sections 3111.23 to 3111.28 of the Revised Code."

(2) In any action in which support is ordered or modified under an administrative support order as described in division (A)(1) of this section, the child support enforcement agency shall determine in accordance with division (B) of this section or section 3111.231 of the Revised Code the

types of withholding or deduction requirements or other requirements that should be imposed relative to the obligor under the administrative support order to collect the support due under the order. Within fifteen days after the obligor under the administrative support order is located subsequent to the issuance of the administrative support order or within fifteen days after the default under the administrative support order, whichever is applicable, the agency shall send a notice by regular mail to each person required to comply with a withholding or deduction requirement. The notice shall specify the withholding or deduction requirement and shall contain all of the information set forth in division (B)(1) or (2)(b) of this section that is applicable to the requirement. The notices, plus the notices provided by the child support enforcement agency that require the obligor to notify the agency of any change in the obligor's employment status or of any other change in the status of the obligor's assets, are final and are enforceable by the court. The agency shall provide the notice to the obligor in accordance with division (B)(1)(c) or (2)(c) of this section, whichever is applicable, and shall include with that notice the additional notices described in the particular division that is applicable.

(3)(a) If support is ordered or modified on or after December 31, 1993, under an administrative support order issued under former section 3111.21 or section 3111.20, 3111.211, or 3111.22 of the Revised Code, if the child support enforcement agency has determined in accordance with division (A)(2) of this section the types of withholding or deduction requirements or other requirements that should be imposed relative to the obligor under the support order to collect the support due under the order, if the agency has sent the appropriate withholding or deduction notices or issued and sent an order under section 3111.231 of the Revised Code to the persons required to comply with the withholding or deduction requirements or order that the agency determined should be imposed, and if the agency is notified or otherwise determines that the employment status or other circumstances of the obligor have changed, the agency shall conduct an investigation to determine whether it is more appropriate to impose another type of or an additional withholding or deduction requirement or order regarding the administrative support order and shall issue and send by regular mail one or more notices described in division (B) of this section or an order pursuant to section 3111.231 of the Revised Code that it determines are appropriate. The agency shall immediately cancel any previously issued notice or order that no longer is appropriate and send written notice of the cancellation by regular mail to the person required to comply with the previously issued notice or order. The notices shall be sent within fifteen days after the obligor

under the administrative support order is located or within fifteen days after the default under the administrative support order, whichever is applicable. The notices shall specify the withholding or deduction requirement and shall contain all of the information set forth in division (B)(1)(b) or (2)(b) of this section that is applicable. The agency shall provide the notices to the obligor in accordance with division (B)(1)(c) or (2)(c) of this section, whichever is applicable, and shall include with that notice the additional notices described in the particular division that are applicable. The notices are final and are enforceable by the court.

(b) All support orders issued prior to December 31, 1993, under former section 3111.21 or section 3111.20 or 3111.22 of the Revised Code that have not been modified or found in default on or after that date shall be considered to contain the general provision described in division (A)(1) of this section and shall be enforced and modified in the same manner as an order for support issued on or after December 31, 1993.

(4) If, pursuant to division (A)(2) or (A)(3)(a) of this section, a person is sent a withholding or deduction notice described in division (B) of this section or an order issued under section 3111.231 of the Revised Code and the person fails to comply with the notice or order, the child support enforcement agency, in accordance with section 3111.28 of the Revised Code, shall request the court to find the person in contempt pursuant to section 2705.02 of the Revised Code.

(5) The department of ~~human~~ job and family services shall adopt standard forms for the support withholding and deduction notices prescribed by divisions (A)(1) to (3) and (B) of this section. All child support enforcement agencies shall use the forms in complying with this section.

(B) If a child support enforcement agency is required by division (A) of this section to issue one or more withholding or deduction notices described in this division, the agency shall issue one or more of the following types of notices to pay the support required under the administrative support order in question and to pay any arrearages:

(1)(a) If the child support enforcement agency determines that the obligor is receiving income from a payor, the agency shall require the payor to withhold from the obligor's income a specified amount for support in satisfaction of the administrative support order, to begin the withholding no later than fourteen working days following the date the notice was mailed to the payor under divisions (A)(2) or (3) and (B)(1)(b) of this section or, if the payor is an employer, no later than the first pay period that occurs after fourteen working days following the date the notice was mailed, to send the amount withheld to the division of child support in the department of ~~human~~

job and family services pursuant to section 5101.325 of the Revised Code, to send that amount to the division immediately but not later than seven working days after the date the obligor is paid, and to continue the withholding at intervals specified in the notice until further notice from the child support enforcement agency. To the extent possible, the amount specified in the notice to be withheld shall satisfy the amount ordered for support in the administrative support order plus any arrearages that may be owed by the obligor under any prior court or administrative support order that pertained to the same child or spouse, notwithstanding any applicable limitations of sections 2329.66, 2329.70, 2716.02, 2716.041, and 2716.05 of the Revised Code. However, in no case shall the sum of the amount specified in the notice to be withheld and any fee withheld by the payor as a charge for its services exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).

(b) If the agency imposes a withholding requirement under division (B)(1)(a) of this section, the agency, within the applicable period of time specified in division (A) of this section, shall send to the payor by regular mail a notice that contains all of the information set forth in divisions (B)(1)(b)(i) to (xi) of this section. The notice is final and is enforceable by the court. The notice shall contain all of the following:

(i) The amount to be withheld from the obligor's income and a statement that the amount actually withheld for support and other purposes, including the fee described in division (B)(1)(b)(xi) of this section, shall not be in excess of the maximum amounts permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b);

(ii) A statement that the payor is required to send the amount withheld to the division of child support immediately, but not later than seven working days, after the obligor is paid and is required to report to the agency the date on which the amount was withheld from the obligor's income;

(iii) A statement that the withholding is binding upon the payor until further notice from the agency;

(iv) A statement that if the payor is an employer, the payor is subject to a fine to be determined under the law of this state for discharging the obligor from employment, refusing to employ the obligor, or taking any disciplinary action against the obligor because of the withholding requirement;

(v) A statement that, if the payor fails to withhold income in accordance with the provisions of the notice, the payor is liable for the accumulated amount the payor should have withheld from the obligor's income;

(vi) A statement that the withholding in accordance with the notice and under the provisions of this section has priority over any other legal process

under the law of this state against the same income;

(vii) The date on which the notice was mailed and a statement that the payor is required to implement the withholding no later than fourteen working days following the date the notice was mailed or, if the payor is an employer, no later than the first pay period that occurs after fourteen working days following the date the notice was mailed and is required to continue the withholding at the intervals specified in the notice;

(viii) A requirement that the payor promptly notify the child support enforcement agency, in writing, within ten working days after the date of any situation that occurs, including, termination of employment, layoff of the obligor, any leave of absence of the obligor without pay, termination of workers' compensation benefits, or termination of any pension, annuity, allowance, or retirement benefit in which the payor ceases to pay income in an amount sufficient to comply with the administrative order to the obligor and provide the agency with the obligor's last known address;

(ix) A requirement that, if the payor is an employer, the payor identify in the notification given under division (B)(1)(b)(viii) of this section any types of benefits other than personal earnings that the obligor is receiving or is eligible to receive as a benefit of employment or as a result of the obligor's termination of employment, including, but not limited to, unemployment compensation, workers' compensation benefits, severance pay, sick leave, lump sum payments of retirement benefits or contributions, and bonuses or profit-sharing payments or distributions, and the amount of such benefits, and include in the notification the obligor's last known address and telephone number, date of birth, social security number, and case number and, if known, the name and business address of any new employer of the obligor;

(x) A requirement that, no later than the earlier of forty-five days before the lump-sum payment is to be made or, if the obligor's right to the lump-sum payment is determined less than forty-five days before it is to be made, the date on which that determination is made, the payor notify the child support enforcement agency of any lump-sum payments of any kind of one hundred fifty dollars or more that are to be paid to the obligor, hold the lump-sum payments of one hundred fifty dollars or more for thirty days after the date on which the lump-sum payments otherwise would have been paid to the obligor, and, upon order of the agency, pay any specified amount of the lump-sum payment to the division of child support;

(xi) A statement that, in addition to the amount withheld for support, the payor may withhold a fee from the obligor's income as a charge for its services in complying with the notice a specification of the amount that may

be withheld.

(c) The agency shall send the notice described in division (B)(1)(b) of this section to the obligor, and shall attach to the notice an additional notice requiring the obligor immediately to notify the child support enforcement agency, in writing, of any change in employment, including self-employment, and of the availability of any other sources of income that can be the subject of any withholding or deduction requirement described in division (B) of this section. The agency shall serve the notices upon the obligor at the same time as service of the administrative support order or, if the administrative support order previously has been issued, shall send the notices to the obligor by regular mail at the obligor's last known address at the same time that it sends the notice described in division (B)(1)(b) of this section to the payor. The notification required of the obligor shall include a description of the nature of any new employment or income source, the name, business address, and telephone number of any new employer or income source, and any other information reasonably required by the agency. No obligor shall fail to give the notification as required by division (B)(1)(c) of this section.

(2)(a) If the child support enforcement agency determines that the obligor has funds on deposit in any account in a financial institution under the jurisdiction of the court, the agency may require any financial institution in which the obligor's funds are on deposit to deduct from the obligor's account a specified amount for support in satisfaction of the administrative support order, to begin the deduction no later than fourteen working days following the date the notice was mailed to the financial institution under divisions (A)(2) or (3) and (B)(2)(b) of this section, to send the amount deducted to the division of child support in the department of ~~human~~ job and family services pursuant to section 5101.325 of the Revised Code, to send that amount to the division immediately but not later than seven working days after the date the latest deduction was made, to provide the date on which the amount was deducted, and to continue the deduction at intervals specified in the notice until further notice from the agency. To the extent possible, the amount specified in the notice to be deducted shall satisfy the amount ordered for support in the administrative support order plus any arrearages that may be owed by the obligor under any prior court or administrative support order that pertained to the same child or spouse, notwithstanding the limitations of sections 2329.66, 2329.70, and 2716.13 of the Revised Code.

(b) If the agency imposes a deduction requirement under division (B)(2)(a) of this section, it, within the applicable period of time specified in

division (A) of this section, shall send to the financial institution by regular mail a notice that contains all of the information set forth in divisions (B)(2)(b)(i) to (viii) of this section. The notice is final and is enforceable by the court. The notice shall contain all of the following:

(i) The amount to be deducted from the obligor's account;

(ii) A statement that the financial institution is required to send the amount deducted to the division of child support immediately, but not later than seven working days, after the date the last deduction was made and is required to report to the agency the date on which the amount was deducted from the obligor's account;

(iii) A statement that the deduction is binding upon the financial institution until further notice from the court or agency;

(iv) A statement that the withholding in accordance with the notice and under the provisions of this section has priority over any other legal process under the law of this state against the same account;

(v) The date on which the notice was mailed and a statement that the financial institution is required to implement the deduction no later than fourteen working days following the date the notice was mailed and is required to continue the deduction at the intervals specified in the notice;

(vi) A requirement that the financial institution promptly notify the child support enforcement agency, in writing, within ten days after the date of any termination of the account from which the deduction is being made and notify the agency, in writing, of the opening of a new account at that financial institution, the account number of the new account, the name of any other known financial institutions in which the obligor has any accounts, and the numbers of those accounts;

(vii) A requirement that the financial institution include in all notices the obligor's last known mailing address, last known residence address, and social security number;

(viii) A statement that, in addition to the amount deducted for support, the financial institution may deduct a fee from the obligor's account as a charge for its services in complying with the administrative order and a specification of the amount that may be deducted.

(c) The agency shall send the notice described in division (B)(2)(b) of this section to the obligor and shall attach to the notice an additional notice requiring the obligor immediately to notify the child support enforcement agency, in writing, of any change in the status of the account from which the amount of support is being deducted or the opening of a new account with any financial institution, of the commencement of employment, including self-employment, or of the availability of any other sources of income that

can be the subject of any withholding or deduction requirement described in division (B) of this section. The agency shall serve the notices upon the obligor at the same time as service of the administrative support order or, if the support order previously has been issued, shall send the notices to the obligor by regular mail at the obligor's last known address at the same time that it sends the notice described in division (B)(2)(b) of this section to the obligor. The additional notice also shall notify the obligor that upon commencement of employment, the obligor may request the agency to cancel its financial institution account deduction notice and instead issue a notice requiring the withholding of an amount from the obligor's personal earnings for support in accordance with division (B)(1) of this section and that upon commencement of employment the agency may cancel its financial institution account deduction notice and instead will issue a notice requiring the withholding of an amount from the obligor's personal earnings for support in accordance with division (B)(1) of this section. The notification required of the obligor shall include a description of the nature of any new accounts opened at a financial institution located in the county in which the agency is located, the name and business address of that financial institution, a description of the nature of any new employment or income source, the name, business address, and telephone number of any new employer or income source, and any other information reasonably required by the agency.

(C) If an agency issues or modifies an administrative support order under section 3111.20, 3111.211, or 3111.22 of the Revised Code and issues one or more notices described in division (B) of this section, the agency to the extent possible shall issue a sufficient number of notices under division (B) of this section to provide that the aggregate amount withheld or deducted under those notices satisfies the amount ordered for support in the administrative support order plus any arrearages that may be owed by the obligor under any prior court or administrative support order that pertained to the same child or spouse, notwithstanding any applicable limitations of sections 2329.66, 2329.70, 2716.02, 2716.041, 2716.05, 2716.13, and 4123.67 of the Revised Code. However, in no case shall the aggregate amount withheld pursuant to a withholding notice issued under division (B)(1) of this section and any fees withheld pursuant to the notice as a charge for services exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).

(D) When two or more withholding notices that are described in division (B)(1) of this section are received by a payor, the payor shall comply with all of the requirements contained in the notices to the extent

that the total amount withheld from the obligor's income does not exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b), withhold amounts in accordance with the allocation set forth in divisions (D)(1) and (2) of this section, notify each agency that issued one of the notices of the allocation, and give priority to amounts designated in each notice as current support in the following manner:

(1) If the total of the amounts designated in the notices as current support exceeds the amount available for withholding under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b), the payor shall allocate to each notice an amount for current support equal to the amount designated in that notice as current support multiplied by a fraction in which the numerator is the amount of income available for withholding and the denominator is the total amount designated in all of the notices as current support.

(2) If the total of the amounts designated in the notices as current support does not exceed the amount available for withholding under section 303(b) of the "Consumer Credit Protection Act," the payor shall pay all of the amounts designated as current support in the notices and shall allocate to each notice an amount for past-due support equal to the amount designated in that notice as past-due support multiplied by a fraction in which the numerator is the amount of income remaining available for withholding after the payment of current support and the denominator is the total amount designated in all of the notices orders as past-due support.

(E)(1) Except when a provision specifically authorizes or requires service other than as described in this division, service of any notice on any party, a financial institution, or a payor, for purposes of division (A) or (B) of this section, shall be made by ordinary first class mail directed to the addressee at the addressee's last known address, or, in the case of a corporation, at its usual place of doing business. A notice shall be considered to have been served when it is mailed.

(2) Each party to an administrative support order shall notify the child support enforcement agency of the party's current mailing address, current residence address, current residence telephone number, and current driver's license number, at the time of the issuance or modification of the order and, until further notice of the agency that issues the order, shall notify the agency of any change in that information immediately after the change occurs. No person shall fail to give the notice as required by division (E)(2) of this section.

(3) Each administrative support order issued pursuant to this section

shall contain a notice that states the following in boldfaced type and in all capital letters:

"EACH PARTY TO THIS SUPPORT ORDER MUST NOTIFY THE CHILD SUPPORT ENFORCEMENT AGENCY IN WRITING OF HIS OR HER CURRENT MAILING ADDRESS, CURRENT RESIDENCE ADDRESS, CURRENT RESIDENCE TELEPHONE NUMBER, CURRENT DRIVER'S LICENSE NUMBER, AND OF ANY CHANGES IN THAT INFORMATION. EACH PARTY MUST NOTIFY THE AGENCY OF ALL CHANGES UNTIL FURTHER NOTICE FROM THE AGENCY. IF YOU ARE THE OBLIGOR UNDER THE SUPPORT ORDER AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS, YOU MAY BE FINED UP TO $50 FOR A FIRST OFFENSE, $100 FOR A SECOND OFFENSE, AND $500 FOR EACH SUBSEQUENT OFFENSE.

IF YOU ARE AN OBLIGOR AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS, YOU MAY NOT RECEIVE NOTICE OF THE FOLLOWING ENFORCEMENT ACTIONS AGAINST YOU: IMPOSITION OF LIENS AGAINST YOUR PROPERTY; LOSS OF YOUR PROFESSIONAL OR OCCUPATIONAL LICENSE, DRIVER'S LICENSE, AND RECREATIONAL LICENSE; WITHHOLDING FROM YOUR INCOME; ACCESS RESTRICTION AND DEDUCTION FROM YOUR ACCOUNTS IN FINANCIAL INSTITUTIONS; AND ANY OTHER ACTION PERMITTED BY LAW TO OBTAIN MONEY FROM YOU TO SATISFY YOUR SUPPORT OBLIGATION."

(4)(a) The parent who is the residential parent and legal custodian of a child for whom an administrative support order is issued or the person who otherwise has custody of a child for whom an administrative support order is issued immediately shall notify, and the obligor under an administrative support order may notify, the child support enforcement agency of any reason for which an administrative support order should terminate, including, but not limited to, the child's attainment of the age of majority if the child no longer attends an accredited high school on a full-time basis; the child ceasing to attend such a high school on a full-time basis after attaining the age of majority; or the death, marriage, emancipation, enlistment in the armed services, deportation, or change of legal or physical custody of the child. Upon receipt of a notice pursuant to this division, the agency immediately shall conduct an investigation to determine if any reason exists for which the administrative support order should terminate. The agency may conduct such an investigation regardless of whether a parent or person with custody sends a notice that the order should terminate. If the agency

determines the order should terminate, it immediately shall terminate the administrative support order.

(b) Upon receipt of a notice given pursuant to division (E)(4)(a) of this section, the agency shall direct the division of child support to impound any funds received for the child pursuant to the administrative support order and the agency shall set the case for an administrative hearing for a determination of whether the administrative support order should be terminated or modified or whether the agency should take any other appropriate action.

(c) If the child support enforcement agency terminates an administrative support order pursuant to divisions (E)(4)(a) and (b) of this section, the termination of the support order also terminates any withholding or deduction order as described in division (B) of this section issued prior to December 31, 1993, and any withholding or deduction notice as described in division (B) of this section issued on or after December 31, 1993. Upon the termination of any withholding or deduction order or notice, the agency immediately shall notify each payor or financial institution required to withhold or deduct a sum of money for the payment of support under the terminated withholding or deduction order or notice that the order or notice has been terminated and that it is required to cease all withholding or deduction under the order or notice.

(d) The ~~department~~ director of ~~human~~ job and family services shall adopt rules that provide for both of the following:

(i) The payment to the appropriate person of any funds that the division of child support has impounded under division (E)(4)(b) of this section, consistent with the agency's determination pursuant to divisions (E)(4)(a) and (b) of this section;

(ii) The return to the appropriate person of any other payments made pursuant to an administrative support order, if the payments were made at any time after the administrative support order has been terminated pursuant to divisions (E)(4)(a) and (b) of this section.

(5) If any party to an administrative support order requests a modification of the administrative support order, the agency shall proceed as provided in section 3111.27 of the Revised Code. If the obligor is in default under the administrative support order, the agency shall proceed as provided in division (B) of section 3113.21 of the Revised Code. If any person otherwise files an action to enforce an administrative support order, the agency shall proceed as provided in sections 3111.20 to 3111.28 of the Revised Code.

(F)(1)(a) Upon receipt of a notice that a lump-sum payment of one

hundred fifty dollars or more is to be paid to the obligor, the agency shall do either of the following:

(i) If the obligor is in default under the administrative support order or has any unpaid arrearages under the administrative support order, issue an administrative order requiring the transmittal of the lump-sum payment to the division of child support;

(ii) If the obligor is not in default under the administrative support order and does not have any unpaid arrearages under the support order, issue an administrative order directing the person who gave the notice to the agency to immediately pay the full amount of the lump-sum payment to the obligor.

(b) Upon receipt of notice that a lump-sum payment of less than one hundred fifty dollars is to be paid to the obligor, the agency may take the action described in division (F)(1)(a) of this section.

(2) Upon receipt of any moneys pursuant to division (F)(1)(a) of this section, the division of child support shall pay the amount of the lump-sum payment that is necessary to discharge all of the obligor's arrearages to the obligee and, within two business days after its receipt of the money, any amount that is remaining after the payment of the arrearages to the obligor.

(G)(1) Any administrative support order, or modification of an administrative support order, that is subject to this section shall contain the date of birth and social security number of the obligor.

(2) No withholding or deduction notice described in division (B) of this section shall contain any information other than the information specifically required by division (B) or (G)(3) of this section or by any other section of the Revised Code and any additional information that the issuing agency determines may be necessary to comply with the notice.

(3) Each withholding or deduction notice described in division (B) of this section shall include notice of all of the following:

(a) That the child support enforcement agency may bring an action under section 3111.28 of the Revised Code requesting the court to find the payor or financial institution in contempt pursuant to section 2705.02 of the Revised Code if the payor or financial institution fails to comply with the withholding or deduction notice;

(b) That, if the payor or financial institution fails to comply with the withholding or deduction notice, that failure to comply is contempt pursuant to section 2705.02 of the Revised Code.

(H) No withholding or deduction notice described in division (B) of this section and issued under this section or any other section of the Revised Code shall be terminated solely because the obligor pays any part or all of the arrearages under the administrative support order.

(I)(1) Except as provided in division (I)(2) of this section, if child support arrearages are owed by an obligor to the obligee and to the department of ~~human~~ job and family services, any payments received on the arrearages by the division of child support first shall be paid to the obligee until the arrearages owed to the obligee are paid in full.

(2) Division (I)(1) of this section does not apply to the collection of past-due child support from refunds of paid federal taxes pursuant to section 5101.32 of the Revised Code or of overdue child support from refunds of paid state income taxes pursuant to sections 5101.321 and 5747.121 of the Revised Code.

Sec. 3111.231. If a child support enforcement agency otherwise required by division (A) of section 3111.23 of the Revised Code to issue a withholding or deduction notice under division (B) of that section is unable to issue the notice because none of the conditions specified in division (B) of that section for issuing the notice apply to the obligor, the agency shall issue an administrative order requiring the obligor, if able to engage in employment, to seek employment or participate in a work activity to which a recipient of assistance under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, may be assigned as specified in section 407(d) of the "Social Security Act," 42 U.S.C.A. 607(d), as amended. The agency shall include in the order a requirement that the obligor notify the agency on obtaining employment or income, or ownership of any asset with a value of five hundred dollars or more. The agency may issue the order regardless of whether the obligee to whom the obligor owes support is a recipient of assistance under Title IV-A of the "Social Security Act."

If an obligor is ordered to participate in a work activity, the child support enforcement agency shall oversee the obligor's participation in accordance with rules the ~~department~~ director of ~~human~~ job and family services shall adopt in accordance with Chapter 119. of the Revised Code. The agency may contract with one or more persons or government entities to carry out some or all of its oversight duties.

If an obligor fails to comply with an administrative order, the agency shall submit a request to a court for the court to take action under division (D)(4) of section 3113.21 of the Revised Code.

Sec. 3111.24. (A)(1) For purposes of this section, a withholding or deduction order that was issued prior to December 31, 1993, under division (A)(1), (2), (3), (4), or (5) of section 3111.23 of the Revised Code as the division existed prior to that date and that has not been terminated on or after December 31, 1993, shall be considered to be a withholding or

uction notice issued under divisions (A) and (B)(1) or (2) of section 3111.23 of the Revised Code.

(2) A payor required to withhold a specified amount from the income of an employee pursuant to a withholding notice issued under section 3111.23 of the Revised Code for purposes of support also may deduct from the income of the person, in addition to the amount withheld for purposes of support, a fee of two dollars or an amount not to exceed one per cent of the amount withheld for purposes of support, whichever is greater, as a charge for its services in complying with the withholding requirement included in the withholding notice. A financial institution required to deduct funds from an account pursuant to a deduction notice issued under divisions (A) and (B)(2) of section 3111.23 of the Revised Code for purposes of support may deduct from the account of the person, in addition to the amount deducted for purposes of support, a fee of five dollars or an amount not to exceed the lowest rate that it charges, if any, for a debit transaction in a similar account, whichever is less, as a charge for its service in complying with the deduction requirement included in the deduction notice.

The entire amount withheld or deducted pursuant to a withholding or deduction notice issued under divisions (A) and (B) of section 3111.23 of the Revised Code for purposes of support shall be forwarded to the division of child support in the department of ~~human~~ job and family services immediately, but no later than seven working days, after the withholding or deduction, as directed in the withholding or deduction notice.

(B) If a payor or financial institution is required to withhold or deduct a specified amount from the income or savings of more than one obligor pursuant to a withholding or deduction notice issued under divisions (A) and (B) of section 3111.23 of the Revised Code and is required to forward the amounts withheld or deducted to the division of child support, the payor or financial institution may combine all of the amounts to be forwarded in one payment, provided the payment is accompanied by a list that clearly identifies each obligor who is covered by the payment and the portion of the payment that is attributable to that obligor.

(C) Upon receipt of any amount forwarded from a payor or financial institution the division of child support shall distribute the amount to the obligee within two business days of its receipt of the amount forwarded. The ~~department~~ director of ~~human~~ job and family services may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code to assist in the implementation of this division.

(D) A payor or financial institution shall not be subject to criminal or civil liability for compliance, in accordance with this section, with a

withholding or deduction notice issued pursuant to division (B) of section 3111.23 of the Revised Code.

Sec. 3111.25. (A)(1) For purposes of this section, a withholding or deduction order that was issued prior to December 31, 1993, under division (A)(1), (2), (4), or (5) of section 3111.23 of the Revised Code as the division existed prior to that date and that has not been terminated on or after December 31, 1993, shall be considered to be a withholding or deduction notice issued under divisions (A) and (B)(1) or (2) of section 3111.23 of the Revised Code.

(2) A payor that fails to withhold an amount from an obligor's income for support in accordance with a withholding requirement contained in a withholding notice issued under divisions (A) and (B)(1) of section 3111.23 of the Revised Code or a financial institution that fails to deduct funds from an obligor's account for support in accordance with a deduction requirement contained in a deduction notice issued under divisions (A) and (B)(2) of section 3111.23 of the Revised Code is liable for the amount that was not withheld or deducted, provided that no payor that is an employer whose normal pay and disbursement cycles make it impossible to comply with a withholding requirement contained in a withholding notice issued under divisions (A) and (B)(1) of section 3111.23 of the Revised Code shall be liable for the amount not withheld if the employer, as soon as possible after the employer's receipt of the withholding notice, provides the agency that issued the withholding notice with written notice of the impossibility and the reasons for the impossibility. An employer who is liable under this provision for an amount that was not withheld shall be ordered by the agency to pay that amount to the division of child support in the department of ~~human~~ job and family services, to be disbursed in accordance with the administrative support order for the benefit of the child or spouse.

(B) No payor that is an employer may use a requirement to withhold personal earnings contained in a withholding notice issued under divisions (A) and (B)(1) of section 3111.23 of the Revised Code as a basis for a discharge of, or for any disciplinary action against, an employee, or as a basis for a refusal to employ a person.

Sec. 3111.27. (A) No later than May 1, 1992, the ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure substantially similar to the procedure adopted pursuant to section 3113.216 of the Revised Code for determining when existing administrative support orders should be reviewed to determine whether it is necessary or in the best interest of the child who is the subject of the administrative support order to modify:

(1) The support amount ordered under the administrative support order and to calculate any modification to the support amount in accordance with section 3113.215 of the Revised Code;

(2) The provisions for the child's health care needs in the administrative support order and to make the modification in accordance with section 3111.241 of the Revised Code.

(B)(1) If a child support enforcement agency, periodically or upon the request of the obligee or obligor, plans to review an administrative support order in accordance with the rules adopted pursuant to division (A) of this section or otherwise is requested to review an administrative support order, it shall do all the following prior to formally beginning the review:

(a) Establish a date certain upon which the review shall begin;

(b) At least sixty days before formally beginning the review, send the obligor and obligee notice of the planned review and of the date when the review will formally begin;

(c) Request the obligor to provide the agency, no later than the scheduled date for formally beginning the review, with a copy of the obligor's federal income tax return from the previous year, a copy of all pay stubs obtained by the obligor within the preceding six months, a copy of all records evidencing the receipt of salary, wages, or compensation by the obligor within the preceding six months, a list of the group health insurance and health care policies, contracts, and plans available to the obligor and their costs, the current group health insurance or health care policy, contract, or plan under which the obligor is enrolled and its cost, and any other information necessary to properly review the administrative support order, and request the obligee to provide the agency, no later than the scheduled date for review to formally begin, with a copy of the obligee's federal income tax returns from the previous year, a copy of all pay stubs obtained by the obligee within the preceding six months, a copy of all records evidencing the receipt of salary, wages, or compensation by the obligee within the preceding six months, a list of the group health insurance and health care policies, contracts, and plans available to the obligee and their costs, the current group health insurance or health care policy, contract, or plan under which the obligor is enrolled and its cost, and any other information necessary to properly review the administrative support order;

(d) Include in the notice sent pursuant to division (B)(1)(b) of this section, a notice that if either the obligor or obligee fails to comply with the request for information, the agency may bring an action under section 3111.28 of the Revised Code requesting the court to find the obligor and the obligee in contempt pursuant to section 2705.02 of the Revised Code.

(2) If either the obligor or obligee fails to comply with the request made pursuant to division (B)(1)(c) of this section, the agency may bring an action under section 3111.28 of the Revised Code in the court of common pleas of the county in which the agency is located requesting the court to issue an order requiring an obligor and obligee to comply with the agency's request for information pursuant to division (B)(1)(c) of this section. If the obligor or obligee fails to comply with the court order issued pursuant to section 3111.28 of the Revised Code requiring compliance with the administrative request for information, the obligor or obligee is in contempt of court. In the action brought under section 3111.28 of the Revised Code, the agency may request the court to issue an order to require the obligor or obligee to provide the necessary information or to permit the agency to take whatever action is necessary to obtain information and make any reasonable assumptions necessary with respect to the information the person in contempt did not provide to ensure a fair and equitable review of the administrative child support order. If the agency decides to conduct the review based on the reasonable assumptions with respect to the information the person in contempt did not provide, it shall proceed in accordance with the rules adopted by the ~~department~~ director of ~~human~~ job and family services pursuant to division (A) of this section.

(C)(1) If the agency determines that a modification is necessary and in the best interest of the child who is the subject of the administrative support order, the agency shall calculate the amount the obligor shall pay in accordance with section 3113.215 of the Revised Code. The agency may not deviate from the guidelines set forth in section 3113.215 of the Revised Code.

(2) If the agency cannot set the amount of support the obligor shall pay without deviating from the guidelines set forth in section 3113.215 of the Revised Code, the agency shall bring an action under section 2151.231 of the Revised Code on behalf of the person who requested the agency to review the existing administrative order or if no one requested the review, on behalf of the obligee, in the court of common pleas of the county in which the agency is located requesting the court to issue a support order in accordance with sections 3113.21 to 3113.219 of the Revised Code.

(3) When it reviews an administrative support order pursuant to this section, the agency shall consider whether the provision for the child's health care needs in the administrative support order is adequate. If the agency determines that the administrative support order does not provide adequately for the child's health care needs, the agency shall modify the order in accordance with section 3111.241 of the Revised Code.

(D)(1) If the agency modifies an existing administrative support order, the agency shall provide the obligee and obligor with notice of the change and shall include in the notice a statement that the obligor or obligee may object to the modified administrative support order by initiating an action under section 2151.231 of the Revised Code in the juvenile court of the county in which the mother, the father, the child, or the guardian or custodian of the child resides.

(2) If the agency modifies an existing administrative support order, the modification shall relate back to the first day of the month following the date certain on which the review began under division (B)(1)(a) of this section.

Sec. 3111.99. (A) For purposes of this section, "administrative support order" and "obligor" have the same meaning as in section 3111.20 of the Revised Code.

(B) Whoever violates section 3111.29 of the Revised Code is guilty of interfering with the establishment of paternity, a misdemeanor of the first degree.

(C) An obligor who violates division (B)(1)(c) of section 3111.23 of the Revised Code shall be fined not more than fifty dollars for a first offense, not more than one hundred dollars for a second offense, and not more than five hundred dollars for each subsequent offense.

(D) An obligor who violates division (E)(2) of section 3111.23 of the Revised Code shall be fined not more than fifty dollars for a first offense, not more than one hundred dollars for a second offense, and not more than five hundred dollars for each subsequent offense.

(E) A fine imposed pursuant to division (C) or (D) of this section shall be paid to the division of child support in the department of ~~human~~ job and family services or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency. The amount of the fine that does not exceed the amount of arrearage the obligor owes under the administrative support order shall be disbursed in accordance with the support order. The amount of the fine that exceeds the amount of the arrearage under the support order shall be called program income and shall be collected in accordance with section 5101.325 of the Revised Code.

Sec. 3113.04. (A) Sentence may be suspended if a person, after conviction under section 2919.21 of the Revised Code and before sentence under that section, appears before the court of common pleas in which the conviction took place and enters into bond to the state in a sum fixed by the court at not less than five hundred nor more than one thousand dollars, with sureties approved by the court, conditioned that the person will furnish the

child or other dependent with necessary or proper home, care, food, and clothing, or will pay promptly each week for such purpose to the division of child support in the department of ~~human~~ job and family services, a sum to be fixed by the agency. The child support enforcement agency shall comply with sections 3113.21 to 3113.219 of the Revised Code when it fixes the sum to be paid to the division.

(B) Each order for child support made or modified under this section shall include as part of the order a general provision, as described in division (A)(1) of section 3113.21 of the Revised Code, requiring the withholding or deduction of income or assets of the obligor under the order as described in division (D) of section 3113.21 of the Revised Code or another type of appropriate requirement as described in division (D)(3), (D)(4) or (H) of that section, to ensure that withholding or deduction from the income or assets of the obligor is available from the commencement of the support order for collection of the support and of any arrearages that occur; a statement requiring all parties to the order to notify the child support enforcement agency in writing of their current mailing address, current residence address, current resident telephone number, current driver's license number, and any changes to that information, and a notice that the requirement to notify the agency of all changes to that information continues until further notice from the court. If any person required to pay child support under an order made under this section on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt.

(C) Notwithstanding section 3109.01 of the Revised Code, if a court issues a child support order under this section, the order shall remain in effect beyond the child's eighteenth birthday as long as the child continuously attends on a full-time basis any recognized and accredited high school or the order provides that the duty of support of the child continues beyond the child's eighteenth birthday. Except in cases in which the order provides that the duty of support continues for any period after the child reaches nineteen years of age, the order shall not remain in effect after the child reaches age nineteen. Any parent ordered to pay support under a child support order issued under this section shall continue to pay support under the order, including during seasonal vacation periods, until the order terminates.

Sec. 3113.07. As used in this section, "executive director" has the same meaning as in section 5153.01 of the Revised Code.

Sentence may be suspended, if a person, after conviction under section 3113.06 of the Revised Code and before sentence thereunder, appears before the court of common pleas in which such conviction took place and enters into bond to the state in a sum fixed by the court at not less than five hundred dollars, with sureties approved by such court, conditioned that such person will pay, so long as the child remains a ward of the public children services agency or a recipient of aid pursuant to Chapter 5107. or 5115. of the Revised Code, to the executive director thereof or to a trustee to be named by the court, for the benefit of such agency or if the child is a recipient of aid pursuant to Chapter 5107. or 5115. of the Revised Code, to the county department of ~~human~~ job and family services, the reasonable cost of keeping such child. The amount of such costs and the time of payment shall be fixed by the court.

The court, in accordance with section 3113.217 of the Revised Code, shall include in each support order made under this section the requirement that one or both of the parents provide for the health care needs of the child to the satisfaction of the court.

Sec. 3113.09. The trustee appointed by the court of common pleas under sections 3113.04 and 3113.07 of the Revised Code, shall make quarterly reports of the receipts and expenditures of all moneys coming into his hands as provided in sections 3113.01 to 3113.14 of the Revised Code, such reports to be made to the board of county commissioners of the county from which the person described in section 3113.01 of the Revised Code was sentenced, or to the department of ~~human~~ job and family services. The court may require such trustee to enter into a good and sufficient bond for the faithful performance of the duties imposed on him.

Sec. 3113.16. (A) As used in this section:

(1) "Child support order" has the same meaning as in section 2301.373 of the Revised Code.

(2) "Default," "obligor," and "obligee" have the same meanings as in section 2301.34 of the Revised Code.

(3) "Prison," "prison term," and "jail" have the same meanings as in section 2929.01 of the Revised Code.

(B) Notwithstanding any other section of the Revised Code, including sections 5145.16 and 5147.30 of the Revised Code, twenty-five per cent of any money earned pursuant to section 5145.16 or 5147.30 of the Revised Code by a prisoner in a prison or jail who has a dependent child receiving assistance under Chapter 5107. of the Revised Code, shall be paid to the

state department of ~~human~~ job and family services.

(C) Notwithstanding any other section of the Revised Code, including sections 5145.16 and 5147.30 of the Revised Code, and except as provided in division (B) of this section, twenty-five per cent of any money earned pursuant to section 5145.16 or 5147.30 of the Revised Code by a prisoner in a prison or jail who is an obligor in default under a child support order according to the records of the child support enforcement agency administering the order, shall be paid to the agency for distribution to the obligee under the order pursuant to sections 3111.23 to 3111.28 or sections 3113.21 to 3113.219 of the Revised Code.

Sec. 3113.21. (A)(1) In any action in which support is ordered under Chapter 3115. or under section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code, the court shall require the withholding or deduction of income or assets of the obligor in accordance with division (D) of this section or require the issuance of another type of appropriate court order in accordance with division (D)(3) or (4) or (H) of this section to ensure that withholding or deduction from the income or assets of the obligor is available from the commencement of the support order for the collection of the support and any arrearages that occur. The court shall determine the specific withholding or deduction requirements or other appropriate requirements applicable to the obligor under the support order in accordance with divisions (D) and (H) of this section and section 2301.371 of the Revised Code and shall include the specific requirements in the notices described in divisions (A)(2) and (D) of this section or in the court orders described in divisions (A)(2), (D)(3) or (4), and (H) of this section. Any person required to comply with any withholding or deduction requirement shall determine the manner of withholding or deducting from the specific requirement included in the notices described in those divisions without the need for any amendment to the support order, and any person required to comply with a court order described in division (D)(3), (D)(4), or (H) of this section shall comply with the court order without the need for any amendment to the support order. The court shall include in any action in which support is ordered as described in division (A)(1) of this section a general provision that states the following:

"All child support and spousal support under this order shall be withheld or deducted from the income or assets of the obligor pursuant to a withholding or deduction notice or appropriate court order issued in accordance with section 3113.21 of the Revised Code or a withdrawal directive issued pursuant to section 3113.214 of the Revised Code and shall

be forwarded to the obligee in accordance with sections 3113.21 to 3113.213 of the Revised Code."

(2) In any action in which support is ordered or modified as described in division (A)(1) of this section, the court shall determine in accordance with divisions (D) and (H) of this section the types of withholding or deduction requirements or other appropriate requirements that should be imposed relative to the obligor under the support order to collect the support due under the order. Within fifteen days after the obligor under the support order is located subsequent to the issuance of the support order or within fifteen days after the default under the support order, whichever is applicable, the court or the child support enforcement agency, as determined by agreement of the court and the agency, shall send a notice by regular mail to each person required to comply with a withholding or deduction requirement. The notice shall specify the withholding or deduction requirement and shall contain all of the information set forth in division (D)(1)(b) or (2)(b) of this section that is applicable to the requirement. If the appropriate requirement is an order of the type described in division (D)(3), (D)(4), or (H) of this section, the court shall issue and send a court order in accordance with that division. The notices and court orders, and the notices provided by the court or child support enforcement agency that require the obligor to notify the agency of any change in the obligor's employment status or of any other change in the status of the obligor's assets, are final and are enforceable by the court. When the court or agency issues a notice, it shall provide the notice to the obligor in accordance with division (D)(1)(c) or (D)(2)(c) of this section, whichever is applicable, and shall include with the notice the additional notices described in the particular division that is applicable.

(3)(a) If support is ordered or modified on or after December 31, 1993, under Chapter 3115. or under section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code, if the court has determined in accordance with division (A)(2) of this section the types of withholding or deduction requirements or other appropriate requirements that should be imposed relative to the obligor under the support order to collect the support due under the order, if the court or a child support enforcement agency has mailed the appropriate notice to the person required to comply with the withholding or deduction requirements that the court has determined should be imposed or the court has issued and sent a court order described in division (D)(3), (D)(4), or (H) of this section containing the other appropriate requirements that the court determined should be imposed, and if the child support enforcement agency is notified or otherwise

ines that the employment status or other circumstances of the obligor have changed and that it is more appropriate to impose another type of or an additional withholding or deduction requirement or another type of or additional court order containing another appropriate requirement, the agency immediately shall comply with section 3113.212 of the Revised Code. The notices and court orders issued under this division and section 3113.212 of the Revised Code, and the notices provided by the court or child support enforcement agency that require the obligor to notify the agency of any change in the obligor's employment status or of any other change in the status of the obligor's assets, are final and are enforceable by the court.

(b) All orders for support issued prior to December 31, 1993, under Chapter 3115. or under section 2151.23, 2151.231, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code that have not been modified or subject to division (B) of this section regarding a default under the order on or after that date shall be considered to contain the general provision described in division (A)(1) of this section and shall be enforced and modified in the same manner as an order for support issued on or after December 31, 1993.

(4) The department of ~~human~~ job and family services shall adopt standard forms for the support withholding and deduction notices that are prescribed by divisions (A)(1) to (3) and (B) of this section. All courts and child support enforcement agencies shall use the forms in issuing withholding and deduction notices in compliance with this section.

(B)(1)(a) In any action in which support is ordered under Chapter 3115. or under section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3111.20, 3111.211, 3111.22, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code and in which there has been a default under the order, the court shall comply with divisions (B)(1) to (6) of this section.

If the support was ordered prior to December 31, 1993, or pursuant to section 3111.20, 3111.211, or 3111.22 of the Revised Code, the court that issued the order, or in the case of an order pursuant to section 3111.20, 3111.211, or 3111.22 of the Revised Code, the common pleas court of the county in which the child support enforcement agency that issued the order is located, shall reissue the support order under which there has been a default and shall include in the reissued order a general provision as described in this division requiring the withholding or deduction of income or assets of the obligor in accordance with division (D) of this section or

requiring the issuance of a court order containing another type of appropriate requirement in accordance with division (D)(3), (D)(4), or (H) of this section to ensure that withholding or deduction from the income or assets is available for the collection of current support and any arrearages that occur. If the support was ordered pursuant to section 3111.20, 3111.211, or 3111.22 of the Revised Code and the support order includes a general provision similar to the one described in this division, the court shall replace the similar general provision with the general provision described in this division. Except for the inclusion or replacement of the general provision, the provisions of the reissued order required under this division shall be identical to those of the support order under which there has been a default.

When support has been ordered under any chapter or section described in this division, the child support enforcement agency shall initiate support withholding when the order is in default. Immediately after the identification of a default under the support order, the child support enforcement agency shall conduct the investigation described in division (B)(1)(b) of this section. Additionally, within fifteen calendar days after the identification of a default under the support order, the child support enforcement agency shall investigate the default and, if it is before July 1, 1999, send advance notice to the obligor. On and after that date, the division of child support in the department of human services shall send the advance notice to the obligor. The advance notice shall include a notice describing the actions that may be taken against the obligor pursuant to sections 2301.353, 2301.373, 2301.374, 2301.375, 2301.42 to 2301.45, and 3113.214 of the Revised Code if the court or agency makes a final and enforceable determination that the obligor is in default pursuant to this division. If the location of the obligor is unknown at the time of the identification of a default under the support order, the division shall send the advance notice to the obligor within fifteen days after the agency locates the obligor. The general provision for the withholding or deduction of income or assets to be included in the reissued support order specifically shall include the following statement:

"All child support and spousal support under this order shall be withheld or deducted from the income or assets of the obligor pursuant to a withholding or deduction notice or appropriate court order issued in accordance with section 3113.21 of the Revised Code or a withdrawal directive issued pursuant to section 3113.214 of the Revised Code and shall be forwarded to the obligee in accordance with sections 3113.21 to 3113.213 of the Revised Code."

(b) After the identification of a default under a support order as

escribed in division (B)(1)(a) of this section, the child support enforcement agency immediately shall conduct an investigation to determine the employment status of the obligor, the obligor's social security number, the name and business address of the obligor's employer, whether the obligor is in default under a support order, the amount of any arrearages, and any other information necessary to enable the court or agency to impose any withholding or deduction requirements and issue the related notices described in division (D) of this section or to issue any court orders described in division (D)(3) or (4) of this section. The agency also shall conduct an investigation under this division when required by division (C)(1)(a) or (b) of this section, shall complete the investigation within twenty days after the obligor or obligee files the motion with the court under division (C)(1)(a) of this section or the court orders the investigation under division (C)(1)(b) of this section.

(2) An advance notice to an obligor required by division (B)(1) of this section shall contain all of the following:

(a) A statement of the date on which the advance notice is sent, the amount of arrearages owed by the obligor as determined by the court or the child support enforcement agency, the types of withholding or deduction requirements and related notices described in division (D) of this section or the types of court orders described in division (D)(3), (D)(4), or (H) of this section that will be issued to pay support and any arrearages, and the amount that will be withheld or deducted pursuant to those requirements;

(b) A statement that any notice for the withholding or deduction of an amount from income or assets apply to all current and subsequent payors of the obligor and financial institutions in which the obligor has an account and that any withholding or deduction requirement and related notice described in division (D) of this section or any court order described in division (D)(3), (D)(4), or (H) of this section that is issued will not be discontinued solely because the obligor pays any arrearages;

(c) An explanation of the administrative and court action that will take place if the obligor contests the inclusion of any of the provisions;

(d) A statement that the contents of the advance notice are final and are enforceable by the court unless the obligor files with the child support enforcement agency, within seven days after the date on which the advance notice is sent, a written request for an administrative hearing to determine if a mistake of fact was made in the notice.

(3) If the obligor requests a hearing regarding the advance notice in accordance with division (B)(2)(d) of this section, the child support enforcement agency shall conduct an administrative hearing no later than

ten days after the date on which the obligor files the request for the hearing. No later than five days before the date on which the hearing is to be conducted, the agency shall send the obligor and the obligee written notice of the date, time, place, and purpose of the hearing. The notice to the obligor and obligee also shall indicate that the obligor may present testimony and evidence at the hearing only in regard to the issue of whether a mistake of fact was made in the advance notice.

At the hearing, the child support enforcement agency shall determine whether a mistake of fact was made in the advance notice. If it determines that a mistake of fact was made, the agency shall determine the provisions that should be changed and included in a corrected notice and shall correct the advance notice accordingly. The agency shall send its determinations to the obligor. The agency's determinations are final and are enforceable by the court unless, within seven days after the agency makes its determinations, the obligor files a written motion with the court for a court hearing to determine if a mistake of fact still exists in the advance notice or corrected advance notice.

(4) If, within seven days after the agency makes its determinations under division (B)(3) of this section, the obligor files a written motion for a court hearing to determine if a mistake of fact still exists in the advance notice or the corrected advance notice, the court shall hold a hearing on the request as soon as possible, but no later than ten days, after the request is filed. If the obligor requests a court hearing, no later than five days before the date on which the court hearing is to be held, the court shall send the obligor and the obligee written notice by ordinary mail of the date, time, place, and purpose of the court hearing. The hearing shall be limited to a determination of whether there is a mistake of fact in the advance notice or the corrected advance notice.

If, at a hearing conducted under this division, the court detects a mistake of fact in the advance notice or the corrected advance notice, it immediately shall correct the notice.

(5) Upon exhaustion of all rights of the obligor to contest the withholding or deduction on the basis of a mistake of fact and no later than the expiration of forty-five days after the issuance of the advance notice under division (B)(1) of this section, the court or child support enforcement agency shall issue one or more notices requiring withholding or deduction of income or assets of the obligor in accordance with divisions (A)(2) and (D) of this section, or the court shall issue one or more court orders imposing other appropriate requirements in accordance with division (A)(2) and division (D)(3), (D)(4), or (H) of this section. Thereafter, section 3113.212

of the Revised Code applies in relation to the issuance of the notices and court orders. The notices and court orders issued under this division or section 3113.212 of the Revised Code are final and are enforceable by the court. The court or agency shall send to the obligor by ordinary mail a copy of the withholding or deduction notice, in accordance with division (D) of this section. The failure of the court or agency to give the notice required by this division does not affect the ability of any court to issue any notice or order under this section or any other section of the Revised Code for the payment of support, does not provide any defense to any notice or order for the payment of support that is issued under this section or any other section of the Revised Code, and does not affect any obligation to pay support.

(6) The department of ~~human~~ job and family services shall adopt standard forms for the advance notice prescribed by divisions (B)(1) to (5) of this section. All courts and child support enforcement agencies shall use those forms, and the support withholding and deduction notice forms adopted under division (A)(4) of this section, in complying with this section.

(C)(1) In any action in which support is ordered under Chapter 3115. or under section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code, all of the following apply:

(a) The obligor or obligee under the order may file a motion with the court that issued the order requesting the issuance of one or more withholding or deduction notices as described in division (D) of this section to pay the support due under the order. The motion may be filed at any time after the support order is issued. Upon the filing of a motion pursuant to this division, the child support enforcement agency immediately shall conduct, and shall complete within twenty days after the motion is filed, an investigation in accordance with division (B)(1)(b) of this section. Upon the completion of the investigation and the filing of the agency's report under division (B)(1)(b) of this section, the court shall issue one or more appropriate orders described in division (D) of this section.

(b) If any proceedings involving the support order are commenced in the court and if the court has not issued any orders under division (D) of this section as it existed prior to December 31, 1993, with respect to the support order, if the court determines that any orders issued under division (D) of this section as it existed prior to December 31, 1993, no longer are appropriate, if the court on or after December 31, 1993, has not modified or reissued the support order under division (A) or (B) of this section and issued any notices under division (D) or court orders under division (D)(3) or (4) of this section, or if the court on or after December 31, 1993, has

modified or reissued the support order under division (A) or (B) of this section and issued one or more notices under division (D) or one or more court orders under division (D)(3) or (4) of this section but determines that the notices or court orders no longer are appropriate, the court, prior to or during any hearings held with respect to the proceedings and prior to the conclusion of the proceedings, shall order the child support enforcement agency to conduct an investigation pursuant to division (B)(1)(b) of this section. Upon the filing of the findings of the agency following the investigation, the court, as necessary, shall issue one or more notices described in division (D) or one or more court orders described in division (D)(3) or (4) of this section or modify any notices previously issued under division (D) or any court orders previously issued under division (D)(3) or (4) of this section.

(c)(i) If a child support enforcement agency, in accordance with section 3113.216 of the Revised Code, requests the court to issue a revised child support order in accordance with a revised amount of child support calculated by the agency, the court shall proceed as described in this division. If neither the obligor nor the obligee requests a court hearing on the revised amount of child support, the court shall issue a revised child support order requiring the obligor to pay the revised amount of child support calculated by the agency. However, if the obligor or the obligee requests a court hearing on the revised amount of child support calculated by the agency, the court, in accordance with division (C)(1)(c)(ii) of this section, shall schedule and conduct a hearing to determine if the revised amount of child support is the appropriate amount and if the amount of child support being paid under the child support order otherwise should be revised.

(ii) If the court is required to schedule and conduct a hearing pursuant to division (C)(1)(c)(i) of this section, the court shall give the obligor, obligee, and agency at least thirty days' notice of the date, time, and location of the hearing; order the obligor to provide the court with a copy of the obligor's federal income tax return from the previous year, a copy of all pay stubs obtained by the obligor within the preceding six months, a copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligor within the preceding six months, a list of the group health insurance and health care policies, contracts, and plans available to the obligor and their costs, and the current health insurance or health care policy, contract, or plan under which the obligor is enrolled and its cost, if the obligor failed to provide any of those documents to the agency, and order the obligee to provide the court with a copy of the obligee's federal

income tax return from the previous year, a copy of all pay stubs obtained by the obligee within the preceding six months, a copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligee within the preceding six months, a list of the group health insurance and health care policies, contracts, and plans available to the obligee and their costs, and the current health insurance or health care policy, contract, or plan under which the obligee is enrolled and its cost, if the obligee failed to provide any of those documents to the agency; give the obligor and the obligee notice that any willful failure to comply with that court order is contempt of court and, upon a finding by the court that the party is in contempt of court, the court and the agency will take any action necessary to obtain the information or make any reasonable assumptions necessary with respect to the information the person in contempt of court did not provide to ensure a fair and equitable review of the child support order; issue a revised child support order requiring the obligor to pay the revised amount of child support calculated by the agency, if the court determines at the hearing that the revised amount of child support calculated by the agency is the appropriate amount; and determine the appropriate amount of child support and, if necessary, issue a revised child support order requiring the obligor to pay the amount of child support determined by the court, if the court determines that the revised amount of child support calculated by the agency is not the appropriate amount.

(iii) In determining, at a hearing conducted under divisions (C)(1)(c)(i) and (ii) of this section, the appropriate amount of child support to be paid by the obligor, the court shall consider, in addition to all other factors required by law to be considered, the appropriate person, whether it is the obligor, obligee, or both, to be required in accordance with section 3113.217 of the Revised Code to provide health insurance coverage for the children specified in the order, and the cost of health insurance which the obligor, the obligee, or both have been ordered in accordance with section 3113.217 of the Revised Code to obtain for the children specified in the order.

(d)(i) An obligee under a child support order may file a motion with the court that issued the order requesting the court to modify the order to require the obligor to obtain health insurance coverage for the children who are the subject of the order, and an obligor under a child support order may file a motion with the court that issued the order requesting the court to modify the order to require the obligee to obtain health insurance coverage for those children. Upon the filing of such a motion, the court shall order the child support enforcement agency to conduct an investigation to determine whether the obligor or obligee has satisfactory health insurance coverage for

the children. Upon completion of its investigation, the agency shall inform the court, in writing, of its determination. If the court determines that neither the obligor nor the obligee has satisfactory health insurance coverage for the children, it shall modify the child support order in accordance with section 3113.217 of the Revised Code.

(ii) An obligor or obligee under a child support order may file a motion with the court that issued the order requesting the court to modify the amount of child support required to be paid under the order because that amount does not adequately cover the medical needs of the child. Upon the filing of such a motion, the court shall determine whether the amount of child support required to be paid under the order adequately covers the medical needs of the child and whether to modify the order, in accordance with division (B)(4) of section 3113.215 of the Revised Code.

(e) Whenever a court modifies, reviews, or otherwise reconsiders a child support order, it may reconsider which parent may claim the children who are the subject of the child support order as dependents for federal income tax purposes as set forth in section 151 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, and shall issue its determination on this issue as part of the child support order. The court in its order may permit the parent who is not the residential parent and legal custodian to claim the children as dependents for federal income tax purposes only if the payments for child support are current in full as ordered by the court for the year in which the children will be claimed as dependents. If the court determines that the parent who is not the residential parent and legal custodian may claim the children as dependents for federal income tax purposes, it shall order the residential parent to take whatever action is necessary pursuant to section 152 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, to enable the parent who is not the residential parent and legal custodian to claim the children as dependents for federal income tax purposes in accordance with the order of the court. Any willful failure of the residential parent to comply with the order of the court is contempt of court.

(f) When issuing or modifying a child support order, the court shall include in the order all of the requirements, specifications, and statements described in division (B) of section 3113.218 of the Revised Code. If the obligor or obligee does not request a court hearing on the revised amount of child support determined by the agency and filed with the court pursuant to section 3113.216 of the Revised Code and the court modifies the order to include the revised amount pursuant to division (C)(1)(c)(i) of this section, the modification shall relate back to the first day of the month following the

date certain on which the review of the child support order began pursuant to division (C)(1)(a) of section 3113.216 of the Revised Code. If the obligor or obligee requests a court hearing on the revised amount of child support pursuant to this section and section 3113.216 of the Revised Code and the court, after conducting a hearing, modifies the child support amount under the order, the modification shall relate back to the first day of the month following the date certain on which the review of the child support order began pursuant to division (C)(1)(a) of section 3113.216 of the Revised Code.

(2) In any action in which a support order is issued under Chapter 3115. or under section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code, the court issuing the order also shall conduct a hearing, prior to or at the time of the issuance of the support order, to determine the employment status of the obligor, the obligor's social security number, the name and business address of the obligor's employer, and any other information necessary to enable the court or a child support enforcement agency to issue any withholding or deduction notice described in division (D) of this section or for the court to issue a court order described in division (D)(3) or (4) of this section. The court, prior to the hearing, shall give the obligor notice of the hearing that shall include the date on which the notice is given and notice that the obligor is subject to a requirement for the withholding of a specified amount from income if employed and to one or more other types of withholding or deduction requirements described in division (D) or one or more types of court orders described in division (D)(3) or (4) of this section and that the obligor may present evidence and testimony at the hearing to prove that any of the requirements would not be proper because of a mistake of fact.

The court or child support enforcement agency, immediately upon the court's completion of the hearing, shall issue one or more of the types of notices described in division (D) of this section imposing a withholding or deduction requirement, or the court shall issue one or more types of court orders described in division (D)(3) or (4) of this section.

(D) If a court or child support enforcement agency is required under division (A), (B), or (C) of this section or any other section of the Revised Code to issue one or more withholding or deduction notices described in this division or court orders described in division (D)(3) or (4) of this section, the court shall issue one or more of the following types of notices or court orders, or the agency shall issue one or more of the following types of notices to pay the support required under the support order in question and

also, if required by any of those divisions, any other section of the Revised Code, or the court, to pay any arrearages:

(1)(a) If the court or the child support enforcement agency determines that the obligor is receiving income from a payor, the court or agency shall require the obligor's payor to withhold from the obligor's income a specified amount for support in satisfaction of the support order, to begin the withholding no later than fourteen working days following the date the notice was mailed to the employer under divisions (A)(2) or (B) and (D)(1)(b) of this section or, if the payor is an employer, no later than the first pay period that occurs after fourteen working days following the date the notice was mailed, to send the amount withheld to the division of child support in the department of ~~human~~ job and family services pursuant to section 5101.325 of the Revised Code, to send that amount to the division immediately but not later than seven days after the date the obligor is paid, and to continue the withholding at intervals specified in the notice until further notice from the court or child support enforcement agency. To the extent possible, the amount specified in the notice to be withheld shall satisfy the amount ordered for support in the support order plus any arrearages that may be owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding any applicable limitations of sections 2329.66, 2329.70, 2716.02, 2716.041, and 2716.05 of the Revised Code. However, in no case shall the sum of the amount specified in the notice to be withheld and any fee withheld by the payor as a charge for its services exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).

(b) If the court or agency imposes a withholding requirement under division (D)(1)(a) of this section, it, within the applicable period of time specified in division (A), (B), or (C) of this section, shall send to the obligor's payor by regular mail a notice that contains all of the information set forth in divisions (D)(1)(b)(i) to (xi) of this section. The notice is final and is enforceable by the court. The notice shall contain all of the following:

(i) The amount to be withheld from the obligor's income and a statement that the amount actually withheld for support and other purposes, including the fee described in division (D)(1)(b)(xi) of this section, shall not be in excess of the maximum amounts permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b);

(ii) A statement that the payor is required to send the amount withheld to the division of child support immediately, but not later than seven working days, after the obligor is paid and is required to report to the agency the date on which the amount was withheld from the obligor's income;

(iii) A statement that the withholding is binding upon the payor until further notice from the agency;

(iv) A statement that if the payor is an employer, the payor is subject to a fine to be determined under the law of this state for discharging the obligor from employment, refusing to employ the obligor, or taking any disciplinary action against the obligor because of the withholding requirement;

(v) A statement that, if the payor fails to withhold income in accordance with the provisions of the notice, the payor is liable for the accumulated amount the payor should have withheld from the obligor's income;

(vi) A statement that the withholding in accordance with the notice and under the provisions of this section has priority over any other legal process under the law of this state against the same income;

(vii) The date on which the notice was mailed and a statement that the payor is required to implement the withholding no later than fourteen working days following the date the notice was mailed or, if the payor is an employer, no later than the first pay period that occurs after fourteen working days following the date the notice was mailed and is required to continue the withholding at the intervals specified in the notice;

(viii) A requirement that the payor promptly notify the child support enforcement agency, in writing, within ten working days after the date of any situation that occurs including termination of employment, layoff of the obligor from employment, any leave of absence of the obligor from employment without pay, termination of workers' compensation benefits, or termination of any pension, annuity, allowance, or retirement benefit, in which the payor ceases to pay income in an amount sufficient to comply with the order to the obligor, provide the agency with the obligor's last known address, notify the agency of any new employer or income source, if known, and provide the agency with any new employer's or income source's name, address, and telephone number, if known;

(ix) A requirement that, if the payor is an employer, identify in the notification given under division (D)(1)(b)(viii) of this section any types of benefits other than personal earnings that the obligor is receiving or is eligible to receive as a benefit of employment or as a result of the obligor's termination of employment, including, but not limited to, unemployment compensation, workers' compensation benefits, severance pay, sick leave, lump-sum payments of retirement benefits or contributions, and bonuses or profit-sharing payments or distributions, and the amount of such benefits, and include in the notification the obligor's last known address and telephone number, date of birth, social security number, and court case number and, if known, the name and business address of any new employer

of the obligor;

(x) A requirement that, no later than the earlier of forty-five days before the lump-sum payment is to be made or, if the obligor's right to the lump-sum payment is determined less than forty-five days before it is to be made, the date on which that determination is made, the payor notify the child support enforcement agency of any lump-sum payments of any kind of one hundred fifty dollars or more that are to be paid to the obligor, hold the lump-sum payments of one hundred fifty dollars or more for thirty days after the date on which the lump-sum payments otherwise would have been paid to the obligor and, upon order of the court, pay any specified amount of the lump-sum payment to the division of child support;

(xi) A statement that, in addition to the amount withheld for support, the payor may withhold a fee from the obligor's income as a charge for its services in complying with the notice and a specification of the amount that may be withheld.

(c) The court or agency shall send the notice described in division (D)(1)(b) of this section to the obligor and shall attach to the notice an additional notice requiring the obligor immediately to notify the child support enforcement agency, in writing, of any change in the obligor's income source and of the availability of any other sources of income that can be the subject of any withholding or deduction requirement described in division (D) of this section. The court or agency shall serve the notices upon the obligor at the same time as service of the support order or, if the support order previously has been issued, shall send the notices to the obligor by regular mail at the last known address at the same time that it sends the notice described in division (D)(1)(b) of this section to the payor. The notification required of the obligor shall include a description of the nature of any new employment or income source, the name, business address, and telephone number of any new employer or income source, and any other information reasonably required by the court. No obligor shall fail to give the notification required by division (D)(1)(c) of this section.

(2)(a) If the court or child support enforcement agency determines that the obligor has funds on deposit in any account in a financial institution under the jurisdiction of the court, the court or agency may require any financial institution in which the obligor's funds are on deposit to deduct from the obligor's account a specified amount for support in satisfaction of the support order, to begin the deduction no later than fourteen working days following the date the notice was mailed to the financial institution under divisions (A)(2) or (B) and (D)(2)(b) of this section, to send the amount deducted to the division of child support in the department of ~~human~~ job and

family services pursuant to section 5101.325 of the Revised Code, to send that amount to the division immediately but not later than seven working days after the date the latest deduction was made, to provide the date on which the amount was deducted, and to continue the deduction at intervals specified in the notice until further notice from the court or child support enforcement agency. To the extent possible, the amount specified in the notice to be deducted shall satisfy the amount ordered for support in the support order plus any arrearages that may be owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding the limitations of sections 2329.66, 2329.70, and 2716.13 of the Revised Code.

(b) If the court or agency imposes a withholding requirement under division (D)(2)(a) of this section, it, within the applicable period of time specified in division (A), (B), or (C) of this section, shall send to the financial institution by regular mail a notice that contains all of the information set forth in divisions (D)(2)(b)(i) to (viii) of this section. The notice is final and is enforceable by the court. The notice shall contain all of the following:

(i) The amount to be deducted from the obligor's account;

(ii) A statement that the financial institution is required to send the amount deducted to the division of child support immediately, but not later than seven working days, after the date the last deduction was made and is required to report to the child support enforcement agency the date on which the amount was deducted from the obligor's account;

(iii) A statement that the deduction is binding upon the financial institution until further notice from the court or agency;

(iv) A statement that the withholding in accordance with the notice and under the provisions of this section has priority over any other legal process under the law of this state against the same account;

(v) The date on which the notice was mailed and a statement that the financial institution is required to implement the deduction no later than fourteen working days following the date the notice was mailed and is required to continue the deduction at the intervals specified in the notice;

(vi) A requirement that the financial institution promptly notify the child support enforcement agency, in writing, within ten days after the date of any termination of the account from which the deduction is being made and notify the agency, in writing, of the opening of a new account at that financial institution, the account number of the new account, the name of any other known financial institutions in which the obligor has any accounts, and the numbers of those accounts;

(vii) A requirement that the financial institution include in all notices the obligor's last known mailing address, last known residence address, and social security number;

(viii) A statement that, in addition to the amount deducted for support, the financial institution may deduct a fee from the obligor's account as a charge for its services in complying with the notice and a specification of the amount that may be deducted.

(c) The court or agency shall send the notice described in division (D)(2)(b) of this section to the obligor and shall attach to the notice an additional notice requiring the obligor immediately to notify the child support enforcement agency, in writing, of any change in the status of the account from which the amount of support is being deducted or the opening of a new account with any financial institution, of commencement of employment, including self-employment, or of the availability of any other sources of income that can be the subject of any withholding or deduction requirement described in division (D) of this section. The court or agency shall serve the notices upon the obligor at the same time as service of the support order or, if the support order previously has been issued, shall send the notices to the obligor by regular mail at the last known address at the same time that it sends the notice described in division (D)(2)(b) of this section to the financial institution. The additional notice also shall specify that upon commencement of employment, the obligor may request the court or child support enforcement agency to cancel its financial institution account deduction notice and instead issue a notice requiring the withholding of an amount from personal earnings for support in accordance with division (D)(1) of this section and that upon commencement of employment the court may cancel its financial institution account deduction notice under division (D)(2)(b) of this section and instead will issue a notice requiring the withholding of an amount from personal earnings for support in accordance with division (D)(1) of this section. The notification required of the obligor shall include a description of the nature of any new accounts opened at a financial institution under the jurisdiction of the court, the name and business address of that financial institution, a description of the nature of any new employment or income source, the name, business address, and telephone number of any new employer or income source, and any other information reasonably required by the court.

(3) The court may issue an order requiring the obligor to enter into a cash bond with the court. The court shall issue the order as part of the support order or, if the support order previously has been issued, as a separate order. Any cash bond so required shall be in a sum fixed by the

court at not less than five hundred nor more than ten thousand dollars, conditioned that the obligor will make payment as previously ordered and will pay any arrearages under any prior support order that pertained to the same child or spouse. The order, along with an additional order requiring the obligor to immediately notify the child support enforcement agency, in writing, if the obligor begins to receive income from a payor, shall be attached to, and shall be served upon the obligor at the same time as service of, the support order or, if the support order previously has been issued, as soon as possible after the issuance of the order under this division. The additional order also shall specify that when the obligor begins to receive income from a payor the obligor may request the court to cancel its bond order and instead issue a notice requiring the withholding of an amount from income for support in accordance with division (D)(1) of this section and that when the obligor begins to receive income from a payor the court will proceed to collect on the bond, if the court determines that payments due under the support order have not been made and that the amount that has not been paid is at least equal to the support owed for one month under the support order, and will issue a notice requiring the withholding of an amount from income for support in accordance with division (D)(1) of this section. The notification required of the obligor shall include a description of the nature of any new employment, the name and business address of any new employer, and any other information reasonably required by the court.

The court shall not order an obligor to post a cash bond under this division unless the court determines that the obligor has the ability to do so. A child support enforcement agency shall not issue an order of the type described in this division. If a child support enforcement agency is required to issue a withholding or deduction notice under division (D) of this section but the agency determines that no notice of the type described in division (D)(1) or (2) of this section would be appropriate, the agency may request the court to issue a court order under this division, and, upon the request, the court may issue an order as described in this division.

(4) If the obligor is unemployed, has no income, and does not have an account at any financial institution, or on request of a child support enforcement agency made under section 3111.231 of the Revised Code, the court shall issue an order requiring the obligor, if able to engage in employment, to seek employment or participate in a work activity to which a recipient of assistance under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, may be assigned as specified in section 407(d) of the "Social Security Act," 42 U.S.C.A. 607(d), as amended. The court shall include in the order a requirement that the

obligor notify the child support enforcement agency upon obtaining employment, upon obtaining any income, or upon obtaining ownership of any asset with a value of five hundred dollars or more. The court may issue the order regardless of whether the obligee to whom the obligor owes support is a recipient of assistance under Title IV-A of the "Social Security Act." The court shall issue the order as part of a support order or, if a support order previously has been issued, as a separate order. If a child support enforcement agency is required to issue a withholding or deduction notice under division (D) of this section but the agency determines that no notice of the type described in division (D)(1) or (2) of this section would be appropriate, the agency may request the court to issue a court order under division (D)(4) of this section, and, upon the request, the court may issue an order as described in division (D)(4) of this section.

If an obligor is ordered to participate in a work activity, the child support enforcement agency of the county in which the obligor resides shall oversee the obligor's participation in accordance with rules the ~~department~~ director of ~~human~~ job and family services shall adopt in accordance with Chapter 119. of the Revised Code. A child support enforcement agency may contract with one or more governmental agencies or persons to carry out some or all of its oversight duties.

(E) If a court or child support enforcement agency is required under division (A), (B), or (C) of this section or any other section of the Revised Code to issue one or more notices or court orders described in division (D) of this section, the court or agency to the extent possible shall issue a sufficient number of notices or court orders under division (D) of this section to provide that the aggregate amount withheld or deducted under those notices or court orders satisfies the amount ordered for support in the support order plus any arrearages that may be owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding any applicable limitations of sections 2329.66, 2329.70, 2716.02, 2716.041, 2716.05, 2716.13, and 4123.67 of the Revised Code. However, in no case shall the aggregate amount withheld pursuant to a withholding notice issued under division (D)(1) of this section and any fees withheld pursuant to the notice as a charge for services exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).

(F)(1) Any withholding or deduction requirement that is contained in a notice described in division (D) of this section and that is required to be issued by division (A), (B), or (C) of this section or any other section of the Revised Code has priority over any order of attachment, any order in aid of

execution, and any other legal process issued under state law against the same earnings, payments, or account.

(2) When a payor receives two or more withholding notices that are described in division (D)(1) of this section and that are required to be issued by division (A), (B), or (C) of this section or any other section of the Revised Code, the payor shall comply with all of the requirements contained in the notices to the extent that the total amount withheld from the obligor's income does not exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b), withhold amounts in accordance with the allocation set forth in divisions (F)(2)(a) and (b) of this section, notify each court or child support enforcement agency that issued one of the notices of the allocation, and give priority to amounts designated in each notice as current support in the following manner:

(a) If the total of the amounts designated in the notices as current support exceeds the amount available for withholding under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b), the payor shall allocate to each notice an amount for current support equal to the amount designated in that notice as current support multiplied by a fraction in which the numerator is the amount of income available for withholding and the denominator is the total amount designated in all of the notices as current support.

(b) If the total of the amounts designated in the notices as current support does not exceed the amount available for withholding under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b), the payor shall pay all of the amounts designated as current support in the notices and shall allocate to each notice an amount for past-due support equal to the amount designated in that notice as past-due support multiplied by a fraction in which the numerator is the amount of income remaining available for withholding after the payment of current support and the denominator is the total amount designated in all of the notices as past-due support.

(G)(1) Except when a provision specifically authorizes or requires service other than as described in this division, service of any notice on any party, a financial institution, or payor, for purposes of division (A), (B), (C), or (D) of this section, shall be made by ordinary first class mail directed to the addressee at the last known address, or, in the case of a corporation, at its usual place of doing business. A notice shall be considered to have been served when it is mailed.

(2) Each party to a support order shall notify the child support

enforcement agency of the party's current mailing address, current residence address, current residence telephone number, and current driver's license number, at the time of the issuance or modification of the order and, until further notice of the court that issues the order, shall notify the agency of any change in that information immediately after the change occurs. Any willful failure to comply with this division is contempt of court. No person shall fail to give the notice required by division (G)(2) of this section.

(3) Each support order, or modification of a support order, that is subject to this section shall contain a notice that states the following in boldfaced type and in all capital letters:

"EACH PARTY TO THIS SUPPORT ORDER MUST NOTIFY THE CHILD SUPPORT ENFORCEMENT AGENCY IN WRITING OF HIS OR HER CURRENT MAILING ADDRESS, CURRENT RESIDENCE ADDRESS, CURRENT RESIDENCE TELEPHONE NUMBER, CURRENT DRIVER'S LICENSE NUMBER, AND OF ANY CHANGES IN THAT INFORMATION. EACH PARTY MUST NOTIFY THE AGENCY OF ALL CHANGES UNTIL FURTHER NOTICE FROM THE COURT. IF YOU ARE THE OBLIGOR UNDER A CHILD SUPPORT ORDER AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS YOU MAY BE FINED UP TO $50 FOR A FIRST OFFENSE, $100 FOR A SECOND OFFENSE, AND $500 FOR EACH SUBSEQUENT OFFENSE. IF YOU ARE AN OBLIGOR OR OBLIGEE UNDER ANY SUPPORT ORDER AND YOU WILLFULLY FAIL TO MAKE THE REQUIRED NOTIFICATIONS YOU MAY BE FOUND IN CONTEMPT OF COURT AND BE SUBJECTED TO FINES UP TO $1,000 AND IMPRISONMENT FOR NOT MORE THAN 90 DAYS.

IF YOU ARE AN OBLIGOR AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS YOU MAY NOT RECEIVE NOTICE OF THE FOLLOWING ENFORCEMENT ACTIONS AGAINST YOU: IMPOSITION OF LIENS AGAINST YOUR PROPERTY; LOSS OF YOUR PROFESSIONAL OR OCCUPATIONAL LICENSE, DRIVER'S LICENSE, OR RECREATIONAL LICENSE; WITHHOLDING FROM YOUR INCOME; ACCESS RESTRICTION AND DEDUCTION FROM YOUR ACCOUNTS IN FINANCIAL INSTITUTIONS; AND ANY OTHER ACTION PERMITTED BY LAW TO OBTAIN MONEY FROM YOU TO SATISFY YOUR SUPPORT OBLIGATION."

(4)(a) The parent who is the residential parent and legal custodian of a child for whom a support order is issued or the person who otherwise has custody of a child for whom a support order is issued immediately shall notify, and the obligor under a support order may notify, the child support

enforcement agency of any reason for which the support order should terminate, including, but not limited to, the child's attainment of the age of majority if the child no longer attends an accredited high school on a full-time basis and the support order does not provide for the duty of support to continue past the age of majority; the child ceasing to attend such a high school on a full-time basis after attaining the age of majority, if the support order does not provide for the duty of support to continue past the age of majority; or the death, marriage, emancipation, enlistment in the armed services, deportation, or change of legal or physical custody of the child. A willful failure to notify the child support enforcement agency as required by this division is contempt of court. Upon receipt of a notice pursuant to this division, the agency immediately shall conduct an investigation to determine if any reason exists for which the support order should terminate. The agency may conduct such an investigation regardless of whether it received notice under this division. If the agency determines the order should terminate, it immediately shall notify the court that issued the support order of the reason for which the support order should terminate.

(b) Upon receipt of a notice given pursuant to division (G)(4)(a) of this section, the court shall order the division of child support to impound any funds received for the child pursuant to the support order and the court shall set the case for a hearing for a determination of whether the support order should be terminated or modified or whether the court should take any other appropriate action.

(c) If the court terminates a support order pursuant to divisions (G)(4)(a) and (b) of this section, the termination of the support order also terminates any withholding or deduction order as described in division (D) or (H) of this section issued prior to December 31, 1993, and any withholding or deduction notice as described in division (D) or court order as described in division (D)(3), (D)(4), or (H) of this section issued on or after December 31, 1993. Upon the termination of any withholding or deduction order or any withholding or deduction notice, the court immediately shall notify the appropriate child support enforcement agency that the order or notice has been terminated, and the agency immediately shall notify each payor or financial institution required to withhold or deduct a sum of money for the payment of support under the terminated withholding or deduction order or notice that the order or notice has been terminated and that it is required to cease all withholding or deduction under the order or notice.

(d) The ~~department~~ director of ~~human~~ job and family services shall adopt rules that provide for both of the following:

(i) The return to the appropriate person of any funds that a court has

ordered impounded under division (G)(4)(b) of this section if the support order under which the funds were paid has been terminated pursuant to divisions (G)(4)(a) and (b) of this section;

(ii) The return to the appropriate person of any other payments made pursuant to a support order if the payments were made at any time after the support order under which the funds were paid has been terminated pursuant to divisions (G)(4)(a) and (b) of this section.

(5) If any party to a support order requests a modification of the order or if any obligee under a support order or any person on behalf of the obligee files any action to enforce a support order, the court shall notify the child support enforcement agency that is administering the support order or that will administer the order after the court's determination of the request or the action, of the request or the filing.

(6) When a child support enforcement agency receives any notice under division (G) of section 2151.23, section 2301.37, division (E) of section 3105.18, division (C) of section 3105.21, division (A) of section 3109.05, division (F) of section 3111.13, division (B) of section 3113.04, section 3113.21, section 3113.211, section 3113.212, division (K) of section 3113.31, or division (C)(3) of section 3115.31 of the Revised Code, it shall issue the most appropriate notices under division (D) of this section. Additionally, it shall do all of the following:

(a) If the obligor is subject to a withholding notice issued under division (D)(1) of this section and the notice relates to the obligor's change of employment, send a withholding notice under that division to the new employer of the obligor as soon as the agency obtains knowledge of that employer;

(b) If the notification received by the agency specifies that a lump-sum payment of one hundred fifty dollars or more is to be paid to the obligor, notify the court of the receipt of the notice and its contents. The agency may notify the court if the notification specifies that a lump-sum payment of less than one hundred fifty dollars is to be paid to the obligor.

(c) Comply with section 3113.212 of the Revised Code, as appropriate.

(H)(1)(a) For purposes of division (D)(1) of this section, when a person who fails to comply with a support order that is subject to that division derives income from self-employment or commission, is employed by an employer not subject to the jurisdiction of the court, or is in any other employment situation that makes the application of that division impracticable, the court may require the person to enter into a cash bond to the court in a sum fixed by the court at not less than five hundred nor more than ten thousand dollars, conditioned that the person will make payment as

previously ordered.

(b) When a court determines at a hearing conducted under division (B) of this section, or a child support enforcement agency determines at a hearing or pursuant to an investigation conducted under division (B) of this section, that the obligor under the order in relation to which the hearing or investigation is conducted is unemployed and has no other source of income and no assets so that the application of divisions (B) and (D) of this section would be impracticable, the court shall issue an order as described in division (D)(4) of this section and shall order the obligor to notify the child support enforcement agency in writing immediately of the receipt of any source of income or of the opening of an account in a financial institution, and to include in the notification a description of the nature of the employment or income source, the name, business address, and telephone number of the employer or income source, and any other information reasonably required by the court.

(2) When a court determines, at a hearing conducted under division (C)(2) of this section, that an obligor is unemployed, is not receiving workers' compensation payments, does not have an account in a financial institution, and has no other source of income and no assets so that the application of divisions (C)(2) and (D) of this section would be impracticable, the court shall issue an order as described in division (D)(4) of this section and shall order the obligor to notify the child support enforcement agency, in writing, immediately of the receipt of any source of income or of the opening of an account in a financial institution, and to include in the notification a description of the nature of the employment or income source, the name, business address, and telephone number of the employer or income source or the name, address, and telephone number of the financial institution, and any other information reasonably required by the court.

(3)(a) Upon receipt of a notice from a child support enforcement agency under division (G)(6) of this section that a lump-sum payment is to be paid to the obligor, the court shall do either of the following:

(i) If the obligor is in default under the support order or has any unpaid arrearages under the support order, issue an order requiring the transmittal of the lump-sum payment to the division of child support.

(ii) If the obligor is not in default under the support order and does not have any unpaid arrearages under the support order, issue an order directing the person who gave the notice to the court to immediately pay the full amount of the lump-sum payment to the obligor.

(b) Upon receipt of any moneys pursuant to division (H)(3)(a) of this

section, the division of child support shall pay the amount of the lump-sum payment that is necessary to discharge all of the obligor's arrearages to the obligee and, within two business days after its receipt of the money, any amount that is remaining after the payment of the arrearages to the obligor.

(c) Any court that issued an order prior to December 1, 1986, requiring an employer to withhold an amount from an obligor's personal earnings for the payment of support shall issue a supplemental order that does not change the original order or the related support order requiring the employer to do all of the following:

(i) No later than the earlier of forty-five days before a lump-sum payment is to be made or, if the obligor's right to a lump-sum payment is determined less than forty-five days before it is to be made, the date on which that determination is made, notify the child support enforcement agency of any lump-sum payment of any kind of one hundred fifty dollars or more that is to be paid to the obligor;

(ii) Hold the lump-sum payment for thirty days after the date on which it would otherwise be paid to the obligor, if the lump-sum payment is sick pay, a lump-sum payment of retirement benefits or contributions, or profit-sharing payments or distributions;

(iii) Upon order of the court, pay any specified amount of the lump-sum payment to the division of child support.

(d) If an employer knowingly fails to notify the child support enforcement agency in accordance with division (D) of this section of any lump-sum payment to be made to an obligor, the employer is liable for any support payment not made to the obligee as a result of its knowing failure to give the notice as required by that division.

(I)(1) Any support order, or modification of a support order, that is subject to this section shall contain the date of birth and social security number of the obligor.

(2) No withholding or deduction notice described in division (D) or court order described in division (D)(3) or (4) of this section shall contain any information other than the information specifically required by division (A), (B), (C), or (D) of this section or by any other section of the Revised Code and any additional information that the issuing court determines may be necessary to comply with the notice.

(J) No withholding or deduction notice described in division (D) or court order described in division (D)(3) or (4) of this section and issued under division (A), (B), or (C) of this section or any other section of the Revised Code shall be terminated solely because the obligor pays any part or all of the arrearages under the support order.

(K)(1) Except as provided in division (K)(2) of this section and section 2301.42 of the Revised Code and the rules adopted pursuant to division (C) of that section, if child support arrearages are owed by an obligor to the obligee and to the department of ~~human~~ job and family services, any payments received on the arrearages by the division of child support first shall be paid to the obligee until the arrearages owed to the obligee are paid in full.

(2) Division (K)(1) of this section does not apply to the collection of past-due child support from refunds of paid federal taxes pursuant to section 5101.32 of the Revised Code or of overdue child support from refunds of paid state income taxes pursuant to sections 5101.321 and 5747.121 of the Revised Code.

(L)(1) Each court with jurisdiction to issue support orders or orders establishing the existence or nonexistence of a parent and child relationship shall establish rules of court to ensure that the following percentage of all actions to establish the existence or nonexistence of a parent and child relationship, to establish a support requirement, or to modify a previously issued support order be completed within the following time limits:

(a) Seventy-five per cent of all of the actions shall be completed within six months after they were initially filed;

(b) Ninety per cent of all of the actions shall be completed within twelve months after they were initially filed.

(2) If a case involves complex legal issues requiring full judicial review, the court shall issue a temporary support order within the time limits set forth in division (L)(1) of this section, which temporary order shall be in effect until a final support order is issued in the case. All cases in which the imposition of a notice or order under division (D) of this section is contested shall be completed within the period of time specified by law for completion of the case. The failure of a court to complete a case within the required period does not affect the ability of any court to issue any order under this section or any other section of the Revised Code for the payment of support, does not provide any defense to any order for the payment of support that is issued under this section or any other section of the Revised Code, and does not affect any obligation to pay support.

(3)(a) In any Title IV-D case, the judge, when necessary to satisfy the federal requirement of expedited process for obtaining and enforcing support orders, shall appoint magistrates to make findings of fact and recommendations for the judge's approval in the case. All magistrates appointed pursuant to this division shall be attorneys admitted to the practice of law in this state. If the court appoints a magistrate pursuant to this

division, the court may appoint any additional administrative and support personnel for the magistrate.

(b) Any magistrate appointed pursuant to division (L)(3)(a) of this section may perform any of the following functions:

(i) The taking of testimony and keeping of a record in the case;

(ii) The evaluation of evidence and the issuance of recommendations to establish, modify, and enforce support orders;

(iii) The acceptance of voluntary acknowledgments of support liability and stipulated agreements setting the amount of support to be paid;

(iv) The entering of default orders if the obligor does not respond to notices in the case within a reasonable time after the notices are issued;

(v) Any other functions considered necessary by the court.

(4) The child support enforcement agency may conduct administrative reviews of support orders to obtain voluntary notices or court orders under division (D) of this section and to correct any errors in the amount of any arrearages owed by an obligor. The obligor and the obligee shall be notified of the time, date, and location of the administrative review at least fourteen days before it is held.

(M)(1) The termination of a support obligation or a support order does not abate the power of any court to collect overdue and unpaid support or to punish any person for a failure to comply with an order of the court or to pay any support as ordered in the terminated support order and does not abate the authority of a child support enforcement agency to issue, in accordance with this section, any notice described in division (D) of this section or of a court to issue, in accordance with this section, any court order as described in division (D)(3) or (4) of this section to collect any support due or arrearage under the support order.

(2) Any court that has the authority to issue a support order shall have all powers necessary to enforce that support order, and all other powers, set forth in this section.

(3) Except as provided in division (M)(4) of this section, a court may not retroactively modify an obligor's duty to pay a delinquent support payment.

(4) A court with jurisdiction over a support order may modify an obligor's duty to pay a support payment that becomes due after notice of a petition to modify the support order has been given to each obligee and to the obligor before a final order concerning the petition for modification is entered.

(N) If an obligor is in default under a support order and has a claim against another person of more than one thousand dollars, the obligor shall

notify the child support enforcement agency of the claim, the nature of the claim, and the name of the person against whom the claim exists. If an obligor is in default under a support order and has a claim against another person or is a party in an action for any judgment, the child support enforcement agency or the agency's attorney, on behalf of the obligor, immediately shall file with the court in which the action is pending a motion to intervene in the action or a creditor's bill. The motion to intervene shall be prepared and filed pursuant to Civil Rules 5 and 24(A) and (C).

Nothing in this division shall preclude an obligee from filing a motion to intervene in any action or a creditor's bill.

(O) If an obligor is receiving unemployment compensation benefits, an amount may be deducted from those benefits for purposes of child support, in accordance with section 2301.371 and division (D)(4) of section 4141.28 of the Revised Code. Any deduction from a source in accordance with those provisions is in addition to, and does not preclude, any withholding or deduction for purposes of support under divisions (A) to (N) of this section.

(P) As used in this section, and in sections 3113.211 to 3113.219 of the Revised Code:

(1) "Financial institution" means a bank, savings and loan association, or credit union, or a regulated investment company or mutual fund in which a person who is required to pay child support has funds on deposit that are not exempt under the law of this state or the United States from execution, attachment, or other legal process.

(2) "Title IV-D case" means any case in which the child support enforcement agency is enforcing the child support order pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended.

(3) "Obligor" means the person who is required to pay support under a support order.

(4) "Obligee" means the person who is entitled to receive the support payments under a support order.

(5) "Support order" means an order for the payment of support and, for orders issued or modified on or after December 31, 1993, includes any notices described in division (D) or (H) of this section that are issued in accordance with this section.

(6) "Support" means child support, spousal support, and support for a spouse or former spouse.

(7) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes, but is not limited to, wages, salary, commissions, bonuses, draws against commissions, profit

sharing, and vacation pay.

(8) "Default" has the same meaning as in section 2301.34 of the Revised Code.

(9) "Payor" means any person or entity that pays or distributes income to an obligor, including the obligor, if the obligor is self employed; an employer; an employer that is paying the obligor's workers' compensation benefits; the public employees retirement board; the board of trustees, or other governing entity of a municipal retirement system; the board of trustees of the Ohio police and fire pension fund; the state teachers retirement board; the school employees retirement board; the state highway patrol retirement board; the bureau of workers' compensation; or any other person or entity, except the ~~bureau~~ department of ~~employment~~ job and family services with respect to unemployment compensation benefits paid pursuant to Chapter 4141. of the Revised Code.

(Q) As used in this section, "income" means any form of monetary payment, including personal earnings; workers' compensation payments; unemployment compensation benefits to the extent permitted by, and in accordance with, section 2301.371 of the Revised Code, division (D)(4) of section 4141.28 of the Revised Code, and federal law governing the ~~bureau~~ department of ~~employment~~ job and family services; pensions; annuities; allowances; private or governmental retirement benefits; disability or sick pay; insurance proceeds; lottery prize awards; federal, state, or local government benefits to the extent that the benefits can be withheld or deducted under the law governing the benefits; any form of trust fund or endowment; lump-sum payments; and any other payment in money.

Sec. 3113.211. (A)(1) For purposes of this section, a withholding or deduction order that was issued prior to December 31, 1993, under division (D)(1), (2), (3), (4), or (5) of section 3113.21 of the Revised Code as the division existed prior to that date and that has not been terminated on or after December 31, 1993, shall be considered to be a withholding or deduction notice issued under division (D)(1) or (2) of section 3113.21 of the Revised Code.

(2) A payor ordered to withhold a specified amount from the income of an employee under a withholding notice issued under division (A), (B), (C), or (D)(1) of section 3113.21 of the Revised Code for purposes of support also may deduct from the income of the person, in addition to the amount withheld for purposes of support, a fee of two dollars or an amount not to exceed one per cent of the amount withheld for purposes of support, whichever is greater, as a charge for its services in complying with the withholding requirement included in the withholding notice. A financial

nstitution required to deduct funds from an account under a deduction notice issued under division (D)(2) of section 3113.21 of the Revised Code for purposes of support may deduct from the account of the person, in addition to the amount deducted for purposes of support, a fee of five dollars or an amount not to exceed the lowest rate that it charges, if any, for a debit transaction in a similar account, whichever is less, as a charge for its service in complying with the deduction requirement included in the deduction notice.

The entire amount withheld or deducted pursuant to a withholding or deduction notice issued under division (D) of section 3113.21 of the Revised Code for purposes of support shall be forwarded to the division of child support in the department of ~~human~~ job and family services immediately, but not later than seven working days after, the withholding or deduction, as directed in the withholding or deduction notice.

(B) If a payor or financial institution is required to withhold or deduct a specified amount from the income or savings of more than one obligor under a withholding or deduction notice issued under division (D) of section 3113.21 of the Revised Code and is required to forward the amounts withheld or deducted to the division of child support, the payor or the financial institution may combine all of the amounts to be forwarded in one payment, provided the payment is accompanied by a list that clearly identifies each obligor who is covered by the payment and the portion of the payment that is attributable to that obligor.

(C) Upon receipt of any amount forwarded from a payor or financial institution the division of child support shall distribute the amount to the obligee within two business days of its receipt of the amount forwarded. The ~~department~~ director of ~~human~~ job and family services may adopt, revise, or amend rules under Chapter 119. of the Revised Code to assist in the implementation of this division.

(D) A payor or financial institution shall not be subject to criminal or civil liability for compliance, in accordance with this section, with a withholding or deduction notice issued pursuant to division (D) of section 3113.21 of the Revised Code.

Sec. 3113.212. (A) When a court has issued a support order, when the court or a child support enforcement agency has issued one or more notices containing one or more of the requirements described in division (D) of section 3113.21 of the Revised Code or when a court has issued one or more court orders described in division (D)(3) or (4) of that section, and when either the child support enforcement agency receives a notification as described in division (D), (G), or (H) of section 3113.21 of the Revised

Code that pertains to a change in the source of income or status of accounts in a financial institution of the obligor or the child support enforcement agency otherwise determines that the source of income or status of accounts in a financial institution of the obligor has changed, the child support enforcement agency immediately shall conduct an investigation to determine the obligor's present source of income or assets, and the obligor's address and social security number and shall issue one or more notices described in division (D) of section 3113.21 of the Revised Code that it determines are appropriate. If the agency determines that no notice of the type described in division (D)(1) or (2) of that section would be appropriate, the agency may request the court to issue a court order under division (D)(3) or (4) of that section, and, upon the request, the court may issue an order as described in that division. The notices and court orders are final and are enforceable by the court. The notices shall be mailed within fifteen days after the obligor under the support order is located or within fifteen days after the default under the support order, whichever is applicable.

If the court or child support enforcement agency previously has issued one or more notices containing one or more of the requirements described in division (D) of section 3113.21 of the Revised Code or the court previously has issued one or more court orders described in division (D)(3) or (4) of that section and the child support enforcement agency determines that any of the requirements or court orders no longer are appropriate due to the change, the agency immediately shall cancel any previously issued notice, and the court shall cancel any previously issued court order that no longer is appropriate, the agency shall send written notice of the cancellation by regular mail to the person who was required to comply with the withholding, deduction, or other requirement contained in the canceled notice or court order, and the agency shall issue one or more new notices containing one or more requirements described in division (D) of section 3113.21 of the Revised Code that it determines are appropriate. If the agency determines that no notice of the type described in division (D)(1) or (2) of that section would be appropriate, the agency may request the court to issue a court order under division (D)(3) or (4) of that section, and, upon the request, the court may issue an order as described in that division. The notices and court orders are final and are enforceable by the court. The notices shall be mailed within fifteen days after the obligor under the support order is located or within fifteen days after the default under the support order, whichever is applicable.

(B) When a court or child support enforcement agency has issued one or more notices containing one or more of the requirements described in

on (D) of section 3113.21 of the Revised Code requiring withholding by a payor that is not an employer or requiring deduction by a financial institution or a court has issued one or more court orders described in division (D)(3) or (4) of that section and the agency is informed that the obligor has commenced employment, the agency shall issue a notice requiring the withholding of an amount from the person's personal earnings for support, in accordance with division (D)(1) of section 3113.21 of the Revised Code. The notice is final and is enforceable by the court. Additionally, if the court or agency determines that payments due under the support order have not been made and that the amount that has not been paid is at least equal to the support owed for one month under the support order, the court shall proceed to collect on any cash bond and shall order it paid to the division of child support in the department of ~~human~~ job and family services.

(C) If a child support enforcement agency sends a notice imposing a withholding or deduction requirement or a court sends a court order imposing any other appropriate requirement to a person under division (A) or (B) of this section, the notice or court order, for purposes of sections 3113.21 to 3113.219 of the Revised Code, also shall be considered to have been issued under division (D) of section 3113.21 of the Revised Code. The notice or court order is final and is enforceable by the court.

(D) If a child support enforcement agency sends a notice imposing a withholding or deduction requirement or any other appropriate requirement to a person under division (A) or (B) of this section or under section 3113.21 of the Revised Code and if the payor or financial institution that is sent the withholding, deduction, or other appropriate notice fails to comply with the notice, the child support enforcement agency shall request the court to issue a court order requiring the payor or financial institution to comply with the withholding, deduction, or other appropriate notice sent by the agency immediately or be held in contempt of court. If the court issues the requested order and if the payor or financial institution does not comply with the withholding, deduction, or other appropriate order of the agency that is the subject of the court order immediately, it is in contempt of court.

Sec. 3113.213. (A)(1) For purposes of this section, a withholding or deduction order that was issued prior to December 31, 1993, under division (D)(1), (2), (4), or (5) of section 3113.21 of the Revised Code as the division existed prior to that date and that has not been terminated on or after December 31, 1993, shall be considered to be a withholding or deduction notice issued under division (D)(1) or (2) of section 3113.21 of the Revised Code.

(2) The failure of any person to send any notification required by division (D) or (H) of section 3113.21 of the Revised Code shall be considered as contempt of court.

(B) A payor that fails to withhold an amount from an obligor's income for support in accordance with a withholding requirement included in a withholding notice issued under division (D)(1) of section 3113.21 of the Revised Code or a financial institution that fails to deduct funds from an obligor's account for support in accordance with a deduction requirement included in a deduction notice issued under division (D)(2) of section 3113.21 of the Revised Code is liable for the amount that was not withheld or deducted, provided that no payor that is an employer whose normal pay and disbursement cycles make it impossible to comply with a withholding requirement contained in a withholding notice issued under division (D)(1) of section 3113.21 of the Revised Code shall be liable for the amount not withheld if the employer, as soon as possible after the employer's receipt of the withholding notice, provides the court or child support enforcement agency that issued the notice with written notice of the impossibility and the reasons for the impossibility. An employer who is liable under this provision for an amount that was not withheld shall be ordered by the court to pay that amount to the division of child support in the department of ~~human~~ job and family services, to be disbursed in accordance with the support order for the benefit of the child or spouse.

(C) The court may fine a payor not more than two hundred dollars for failure to withhold income or to notify the court or child support enforcement agency that a situation has occurred causing the payor to cease paying income in an amount sufficient to comply with the order to the obligor, or, in cases in which the obligor is an employer, the obligor is receiving or is eligible to receive a benefit of employment other than personal earnings, as required by a withholding notice issued under division (D)(1) of section 3113.21 of the Revised Code. The court may fine a financial institution not more than two hundred dollars for failure to deduct funds from an account or to notify the court or child support enforcement agency of the termination of an account from which funds are being deducted or the opening of a new account, as required by a deduction notice issued under division (D)(2) of section 3113.21 of the Revised Code.

(D) No payor that is an employer may use a requirement to withhold personal earnings contained in a withholding notice issued under division (D)(1) of section 3113.21 of the Revised Code, as a basis for a discharge of, or for any disciplinary action against, an employee, or as a basis for a refusal to employ a person. The court may fine an employer who so discharges or

takes disciplinary action against an employee, or refuses to employ a person, not more than five hundred dollars.

Sec. 3113.214. (A) For the purposes of this section, "access restriction" means that funds may not be withdrawn or transferred.

(B) If, as a result of information obtained pursuant to an agreement under section 5101.315 of the Revised Code, the division of child support in the department of ~~human~~ job and family services finds or receives notice that identifies an obligor in default who maintains an account with a financial institution, the division shall, within one business day, enter the information into the case registry established pursuant to section 5101.319 of the Revised Code.

(C) A financial institution that learns, pursuant to an agreement under section 5101.315 of the Revised Code, that an obligor in default maintains an account with the financial institution shall promptly place an access restriction on the account. The access restriction shall remain on the account until the financial institution complies with a withdrawal directive under division (F) of this section or a court or child support enforcement agency orders the financial institution to remove the access restriction.

(D) The child support enforcement agency shall, no later than five business days after information is entered into the case registry pursuant to division (B) of this section, investigate and determine the amount of funds in the account that is available to satisfy the obligor's arrearages under a support order. The financial institution shall cooperate with the agency's investigation.

(E)(1) If a child support enforcement agency that completes an investigation described in division (D) of this section does not find that any person other than the obligor has an ownership interest in the account, it shall issue a withdrawal directive pursuant to division (F) of this section. If the agency finds that a person other than an obligor has an ownership interest in the account, the agency shall send written notice by first-class mail to that person at an address for that person contained in records of the financial institution, except that if the address of that person is not contained in records of the financial institution, the agency shall send the notice to that person in care of another person whose address is contained in records of the financial institution concerning the account.

(2) The notice shall contain both of the following:

(a) A statement of the date the notice is sent, that another of the account holders is an obligor under a support order, the name of the obligor, that the support order is in default, the amount of the arrearage owed by the obligor as determined by the court or child support enforcement agency, the amount

that will be withdrawn, the type of account from which the amount will be withdrawn, and the name of the financial institution from which the amount will be withdrawn;

(b) A statement that the person may object to the withdrawal by filing with the agency, no later than ten days after the date on which the notice is sent, a written request for an administrative hearing to determine whether any amount contained in the account is the property of the person to whom the notice is sent and should not be subject to the withdrawal directive.

(3) The person to whom the notice is sent shall have ten days from the date the notice is sent to object to the withdrawal by filing with the agency a written request for an administrative hearing to determine whether any amount contained in the account is the property of that person and should not be subject to the withdrawal directive.

(a) If the person requests it, the agency shall conduct an administrative hearing no later than ten days after the date the person files the request for the hearing. No later than five days before the date the hearing is to be conducted, the agency shall send the person written notice of the date, time, place, and purpose of the hearing.

At the hearing, the agency shall determine whether any amount contained in the account is the property of the person who filed the objection. The person may present testimony and evidence at the hearing only in regard to the issue of whether how much, if any, of the amount contained in the account is the property of the person and should not be subject to withdrawal directive. If the agency determines that any amount contained in the account is the property of the person, the agency shall determine that amount. The agency shall send notice of its determination to the person.

If the agency determines that the total amount in the account is the property of the person, it shall order the financial institution to release the access restriction on the account and shall take no further enforcement action on the account. If the agency determines that some of the funds in the account are the property of the person, it shall order the financial institution to release the access restriction on the account in that amount and shall take no further enforcement action on those funds. The agency shall issue a withdrawal directive pursuant to division (F) of this section for the remaining funds unless, no later than ten days after the agency makes its determination, the person files a written motion with the court of common pleas of the county served by the child support enforcement agency for a hearing to determine whether any amount contained in the account is the property of the person. If the person files a timely motion with the court, the

court shall hold a hearing on the request no later than ten days after the request is filed. No later than five days before the date on which the hearing is to be held, the court shall send the person written notice by ordinary mail of the date, time, place, and purpose of the hearing. The hearing shall be limited to a determination of how much, if any of the amount contained in the account is the property of the person.

If the court determines that all of the funds in the account are the property of the person, it shall order the financial institution to release the access restriction on the account and to take no further enforcement action on the account. If the court determines that some of the funds in the account are the property of the person, it shall determine that amount, order the financial institution to release the access restriction on the account in that amount, and order the agency to take no further enforcement action on those funds. If the court determines that any of the funds in the account are not the property of the person, it shall issue a withdrawal directive pursuant to division (F) of this section.

(b) If a person to whom a notice is sent under division (E)(1) of this section fails to file a timely request for an administrative hearing, the agency shall send a withdrawal directive to the financial institution pursuant to division (F) of this section.

(F)(1) Subject to ~~division~~ divisions (D) and (E) of this section, an agency that determines that an obligor has funds in an account in a financial institution, shall issue a withdrawal directive to the financial institution. The directive shall require the financial institution to transmit funds from the account to the division of child support.

(2) The withdrawal directive shall contain the following information:

(a) The name, address, and social security number or taxpayer identification number of the obligor;

(b) A statement that the obligor has been determined to be in default under a support order;

(c) The amount of the arrearage owed by the obligor as determined by the court or child support enforcement agency;

(d) The amount of funds that are to be withdrawn from the account and the type of account from which the funds are to be withdrawn.

(3) On receipt of a withdrawal directive, a financial institution shall withdraw the amount specified from the account described in the notice and pay it to the division of child support.

(G) A financial institution is not subject to criminal or civil liability for imposing an access restriction on an account or complying with a withdrawal directive pursuant to this section or for any other action taken in

good faith pursuant to this section.

Sec. 3113.215. (A) As used in this section:

(1) "Income" means either of the following:

(a) For a parent who is employed to full capacity, the gross income of the parent;

(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent, and any potential income of the parent.

(2) "Gross income" means, except as excluded in this division, the total of all earned and unearned income from all sources during a calendar year, whether or not the income is taxable, and includes, but is not limited to, income from salaries, wages, overtime pay and bonuses to the extent described in division (B)(5)(d) of this section, commissions, royalties, tips, rents, dividends, severance pay, pensions, interest, trust income, annuities, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, benefits received by and in the possession of the veteran who is the beneficiary for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration, spousal support actually received from a person not a party to the support proceeding for which actual gross income is being determined, and all other sources of income; income of members of any branch of the United States armed services or national guard, including, but not limited to, amounts representing base pay, basic allowance for quarters, basic allowance for subsistence, supplemental subsistence allowance, cost of living adjustment, specialty pay, variable housing allowance, and pay for training or other types of required drills; self-generated income; and potential cash flow from any source.

"Gross income" does not include any of the following:

(a) Benefits received from means-tested public assistance programs, including, but not limited to, Ohio works first; prevention, retention, and contingency; supplemental security income; food stamps; or disability assistance;

(b) Benefits for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration that have not been distributed to the veteran who is the beneficiary of the benefits and that are in the possession of the United States department of veterans' affairs or veterans' administration;

(c) Child support received for children who were not born or adopted during the marriage at issue;

(d) Amounts paid for mandatory deductions from wages other than

taxes, social security, or retirement in lieu of social security, including, but not limited to, union dues;

(e) Nonrecurring or unsustainable income or cash flow items.

(3) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including, but not limited to, company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.

(4)(a) "Ordinary and necessary expenses incurred in generating gross receipts" means actual cash items expended by the parent or the parent's business and includes depreciation expenses of replacement business equipment as shown on the books of a business entity.

(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (A)(4)(a) of this section, "ordinary and necessary expenses incurred in generating gross receipts" does not include depreciation expenses and other noncash items that are allowed as deductions on any federal tax return of the parent or the parent's business.

(5) "Potential income" means both of the following for a parent that the court, or a child support enforcement agency pursuant to sections 3111.20, 3111.211, and 3111.22 of the Revised Code, determines is voluntarily unemployed or voluntarily underemployed:

(a) Imputed income that the court or agency determines the parent would have earned if fully employed as determined from the parent's employment potential and probable earnings based on the parent's recent work history, the parent's occupational qualifications, and the prevailing job opportunities and salary levels in the community in which the parent resides;

(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.

(6) "Child support order" means an order for the payment of child support.

(7) "Combined gross income" means the combined gross income of both parents.

(8) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least one of those children.

(9) "Schedule" means the basic child support schedule set forth in division (D) of this section.

(10) "Worksheet" means the applicable worksheet that is used to calculate a parent's child support obligation and that is set forth in divisions (E) and (F) of this section.

(11) "Nonrecurring or unsustainable income or cash flow item" means any income or cash flow item that the parent receives in any year or for any number of years not to exceed three years and that the parent does not expect to continue to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise utilizes to produce income or cash flow for a period of more than three years.

(12) "Extraordinary medical expenses" means any uninsured medical expenses that are incurred for a child during a calendar year and that exceed one hundred dollars for that child during that calendar year.

(B)(1) In any action in which a child support order is issued or modified under Chapter 3115. or section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code, in any other proceeding in which the court determines the amount of child support that will be ordered to be paid pursuant to a child support order, or when a child support enforcement agency determines the amount of child support that will be paid pursuant to an administrative child support order issued pursuant to sections 3111.20, 3111.211, and 3111.22 of the Revised Code, the court or agency shall calculate the amount of the obligor's child support obligation in accordance with the basic child support schedule in division (D) of this section, the applicable worksheet in division (E) or (F) of this section, and the other provisions of this section, shall specify the support obligation as a monthly amount due, and shall order the support obligation to be paid in periodic increments as it determines to be in the best interest of the children. In performing its duties under this section, the court or agency is not required to accept any calculations in a worksheet prepared by any party to the action or proceeding. In any action or proceeding in which the court

determines the amount of child support that will be ordered to be paid pursuant to a child support order or when a child support enforcement agency determines the amount of child support that will be paid pursuant to an administrative child support order issued pursuant to sections 3111.20, 3111.211, and 3111.22 of the Revised Code, the amount of child support that would be payable under a child support order, as calculated pursuant to the basic child support schedule in division (D) of this section and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, is rebuttably presumed to be the correct amount of child support due, and the court or agency shall order that amount to be paid as child support unless both of the following apply with respect to an order issued by a court:

(a) The court, after considering the factors and criteria set forth in division (B)(3) of this section, determines that the amount calculated pursuant to the basic child support schedule and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, would be unjust or inappropriate and would not be in the best interest of the child.

(b) The court enters in the journal the amount of child support calculated pursuant to the basic child support schedule and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, its determination that that amount would be unjust or inappropriate and would not be in the best interest of the child, and findings of fact supporting that determination.

(2) In determining the amount of child support to be paid under any child support order, the court, upon its own recommendation or upon the recommendation of the child support enforcement agency, shall or the child support enforcement agency, pursuant to sections 3111.20, 3111.211, and 3111.22 of the Revised Code, shall do all of the following:

(a) If the combined gross income of both parents is less than six thousand six hundred dollars per year, the court or agency shall determine the amount of the obligor's child support obligation on a case-by-case basis using the schedule as a guideline. The court or agency shall review the obligor's gross income and living expenses to determine the maximum amount of child support that it reasonably can order without denying the obligor the means for self-support at a minimum subsistence level and shall order a specific amount of child support, unless the obligor proves to the court or agency that the obligor is totally unable to pay child support and the court or agency determines that it would be unjust or inappropriate to order the payment of child support and enters its determination and supporting

findings of fact in the journal.

(b) If the combined gross income of both parents is greater than one hundred fifty thousand dollars per year, the court or agency shall determine the amount of the obligor's child support obligation on a case-by-case basis and shall consider the needs and the standard of living of the children who are the subject of the child support order and of the parents. When the court or agency determines the amount of the obligor's child support obligation for parents with a combined gross income greater than one hundred fifty thousand dollars, the court or agency shall compute a basic combined child support obligation that is no less than the same percentage of the parents' combined annual income that would have been computed under the basic child support schedule and under the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, for a combined gross income of one hundred fifty thousand dollars, unless the court or agency determines that it would be unjust or inappropriate and would not be in the best interest of the child, obligor, or obligee to order that amount and enters in the journal the figure, determination, and findings.

(c) The court shall not order an amount of child support that deviates from the amount of child support that would otherwise result from the use of the basic child support schedule and the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, unless both of the following apply:

(i) The court, after considering the factors and criteria set forth in division (B)(3) of this section, determines that the amount calculated pursuant to the basic child support schedule and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, would be unjust or inappropriate and would not be in the best interest of the child;

(ii) The court enters in the journal the amount of child support calculated pursuant to the basic child support schedule and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, its determination that that amount would be unjust or inappropriate and would not be in the best interest of the child, and findings of fact supporting that determination.

(3) The court, in accordance with divisions (B)(1) and (2)(c) of this section, may deviate from the amount of support that otherwise would result from the use of the schedule and the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, in cases in which the application of the schedule and the applicable

worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, would be unjust or inappropriate and would not be in the best interest of the child. In determining whether that amount would be unjust or inappropriate and would not be in the best interest of the child, the court may consider any of the following factors and criteria:

(a) Special and unusual needs of the children;

(b) Extraordinary obligations for minor children or obligations for handicapped children who are not stepchildren and who are not offspring from the marriage or relationship that is the basis of the immediate child support determination;

(c) Other court-ordered payments;

(d) Extended times of visitation or extraordinary costs associated with visitation, provided that this division does not authorize and shall not be construed as authorizing any deviation from the schedule and the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, or any escrowing, impoundment, or withholding of child support because of a denial of or interference with a right of companionship or visitation granted by court order;

(e) The obligor obtains additional employment after a child support order is issued in order to support a second family;

(f) The financial resources and the earning ability of the child;

(g) Disparity in income between parties or households;

(h) Benefits that either parent receives from remarriage or sharing living expenses with another person;

(i) The amount of federal, state, and local taxes actually paid or estimated to be paid by a parent or both of the parents;

(j) Significant in-kind contributions from a parent, including, but not limited to, direct payment for lessons, sports equipment, schooling, or clothing;

(k) The relative financial resources, other assets and resources, and needs of each parent;

(l) The standard of living and circumstances of each parent and the standard of living the child would have enjoyed had the marriage continued or had the parents been married;

(m) The physical and emotional condition and needs of the child;

(n) The need and capacity of the child for an education and the educational opportunities that would have been available to the child had the circumstances requiring a court order for support not arisen;

(o) The responsibility of each parent for the support of others;

(p) Any other relevant factor.

The court may accept an agreement of the parents that assigns a monetary value to any of the factors and criteria listed in division (B)(3) of this section that are applicable to their situation.

(4) If an obligor or obligee under a child support order requests the court to modify the amount of support required to be paid pursuant to the child support order, the court shall recalculate the amount of support that would be required to be paid under the support order in accordance with the schedule and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, and if that amount as recalculated is more than ten per cent greater than or more than ten per cent less than the amount of child support that is required to be paid pursuant to the existing child support order, the deviation from the recalculated amount that would be required to be paid under the schedule and the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, shall be considered by the court as a change of circumstance that is substantial enough to require a modification of the amount of the child support order. In determining pursuant to this division the recalculated amount of support that would be required to be paid under the support order for purposes of determining whether that recalculated amount is more than ten per cent greater than or more than ten per cent less than the amount of child support that is required to be paid pursuant to the existing child support order, the court shall consider, in addition to all other factors required by law to be considered, the cost of health insurance which the obligor, the obligee, or both the obligor and the obligee have been ordered to obtain for the children specified in the order. Additionally, if an obligor or obligee under a child support order requests the court to modify the amount of support required to be paid pursuant to the child support order and if the court determines that the amount of support does not adequately meet the medical needs of the child, the inadequate coverage shall be considered by the court as a change of circumstance that is substantial enough to require a modification of the amount of the child support order. If the court determines that the amount of child support required to be paid under the child support order should be changed due to a substantial change of circumstances that was not contemplated at the time of the issuance of the original child support order or the last modification of the child support order, the court shall modify the amount of child support required to be paid under the child support order to comply with the schedule and the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, unless the court determines that the amount calculated pursuant to the

basic child support schedule and pursuant to the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, would be unjust or inappropriate and would not be in the best interest of the child and enters in the journal the figure, determination, and findings specified in division (B)(2)(c) of this section.

(5) When a court computes the amount of child support required to be paid under a child support order or a child support enforcement agency computes the amount of child support to be paid pursuant to an administrative child support order issued pursuant to section 3111.20, 3111.211, or 3111.22 of the Revised Code, all of the following apply:

(a) The parents shall verify current and past income and personal earnings with suitable documents, including, but not limited to, paystubs, employer statements, receipts and expense vouchers related to self-generated income, tax returns, and all supporting documentation and schedules for the tax returns.

(b) The amount of any pre-existing child support obligation of a parent under a child support order and the amount of any court-ordered spousal support paid to a former spouse shall be deducted from the gross income of that parent to the extent that payment under the child support order or that payment of the court-ordered spousal support is verified by supporting documentation.

(c) If other minor children who were born to the parent and a person other than the other parent who is involved in the immediate child support determination live with the parent, the court or agency shall deduct an amount from that parent's gross income that equals the number of such minor children times the federal income tax exemption for such children less child support received for them for the year, not exceeding the federal income tax exemption.

(d) When the court or agency calculates the gross income of a parent, it shall include the lesser of the following as income from overtime and bonuses:

(i) The yearly average of all overtime and bonuses received during the three years immediately prior to the time when the person's child support obligation is being computed;

(ii) The total overtime and bonuses received during the year immediately prior to the time when the person's child support obligation is being computed.

(e) When the court or agency calculates the gross income of a parent, it shall not include any income earned by the spouse of that parent.

(f) The court shall not order an amount of child support for reasonable

and ordinary uninsured medical or dental expenses in addition to the amount of the child support obligation determined in accordance with the schedule. The court shall issue a separate order for extraordinary medical or dental expenses, including, but not limited to, orthodontia, psychological, appropriate private education, and other expenses, and may consider the expenses in adjusting a child support order.

(g) When a court or agency calculates the amount of child support to be paid pursuant to a child support order or an administrative child support order, if the combined gross income of both parents is an amount that is between two amounts set forth in the first column of the schedule, the court or agency may use the basic child support obligation that corresponds to the higher of the two amounts in the first column of the schedule, use the basic child support obligation that corresponds to the lower of the two amounts in the first column of the schedule, or calculate a basic child support obligation that is between those two amounts and corresponds proportionally to the parents' actual combined gross income.

(h) When the court or agency calculates gross income, the court or agency, when appropriate, may average income over a reasonable period of years.

(6)(a) If the court issues a shared parenting order in accordance with section 3109.04 of the Revised Code, the court shall order an amount of child support to be paid under the child support order that is calculated in accordance with the schedule and with the worksheet set forth in division (E) of this section, through line 24, except that, if the application of the schedule and the worksheet, through line 24, would be unjust or inappropriate to the children or either parent and would not be in the best interest of the child because of the extraordinary circumstances of the parents or because of any other factors or criteria set forth in division (B)(3) of this section, the court may deviate from the amount of child support that would be ordered in accordance with the schedule and worksheet, through line 24, shall consider those extraordinary circumstances and other factors or criteria if it deviates from that amount, and shall enter in the journal the amount of child support calculated pursuant to the basic child support schedule and pursuant to the applicable worksheet, through line 24, its determination that that amount would be unjust or inappropriate and would not be in the best interest of the child, and findings of fact supporting that determination.

(b) For the purposes of this division, "extraordinary circumstances of the parents" includes, but is not limited to, all of the following:

(i) The amount of time that the children spend with each parent;

(ii) The ability of each parent to maintain adequate housing for the children;

(iii) Each parent's expenses, including, but not limited to, child care expenses, school tuition, medical expenses, and dental expenses.

(7)(a) In any action in which a child support order is issued or modified under Chapter 3115. or section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, or 3113.31 of the Revised Code or in any other proceeding in which the court determines the amount of child support that will be ordered to be paid pursuant to a child support order and except as otherwise provided in this division, the court shall issue a minimum support order requiring the obligor to pay a minimum amount of fifty dollars a month for child support under the child support order. The court, in its discretion and in appropriate circumstances, may issue a minimum support order requiring the obligor to pay an amount of child support that is less than fifty dollars a month or not requiring the obligor to pay an amount for support. The appropriate circumstances for which a court may issue a minimum support order requiring an obligor to pay an amount of child support that is less than fifty dollars a month or not requiring the obligor to pay an amount for support include, but are not limited to, the nonresidential parent's medically verified or documented physical or mental disability or institutionalization in a facility for persons with a mental illness. If the court issues a minimum support order pursuant to this division and the obligor under the support order is the recipient of need-based public assistance, any unpaid amounts of support due under the support order shall accrue as arrearages from month to month, the obligor's current obligation to pay the support due under the support order is suspended during any period of time that the obligor is receiving need-based public assistance and is complying with any seek work orders issued pursuant to division (D)(4) of section 3113.21 of the Revised Code, and the court, obligee, and child support enforcement agency shall not enforce the obligation of the obligor to pay the amount of support due under the support order during any period of time that the obligor is receiving need-based public assistance and is complying with any seek work orders issued pursuant to division (D)(4) of section 3113.21 of the Revised Code.

(b) Notwithstanding division (B)(7)(a) of this section, if the amount of support payments that federal law requires or permits to be disregarded in determining eligibility for aid under Chapter 5107. of the Revised Code exceeds fifty dollars, instead of fifty dollars the amount of a minimum support order described in division (B)(7)(a) of this section shall be the amount federal law requires or permits to be disregarded.

(C) Except when the parents have split parental rights and responsibilities, a parent's child support obligation for a child for whom the parent is the residential parent and legal custodian shall be presumed to be spent on that child and shall not become part of a child support order, and a parent's child support obligation for a child for whom the parent is not the residential parent and legal custodian shall become part of a child support order. If the parents have split parental rights and responsibilities, the child support obligations of the parents shall be offset, and the court shall issue a child support order requiring the parent with the larger child support obligation to pay the net amount pursuant to the child support order. If neither parent of a child who is the subject of a child support order is the residential parent and legal custodian of the child and the child resides with a third party who is the legal custodian of the child, the court shall issue a child support order requiring each parent to pay that parent's child support obligation pursuant to the child support order.

Whenever a court issues a child support order, it shall include in the order specific provisions for regular, holiday, vacation, and special visitation in accordance with section 3109.05, 3109.11, or 3109.12 of the Revised Code or in accordance with any other applicable section of the Revised Code. The court shall not authorize or permit the escrowing, impoundment, or withholding of any child support payment because of a denial of or interference with a right of visitation included as a specific provision of the child support order or as a method of enforcing the specific provisions of the child support order dealing with visitation.

(D) The following basic child support schedule shall be used by all courts and child support enforcement agencies when calculating the amount of child support that will be paid pursuant to a child support order or an administrative child support order, unless the combined gross income of the parents is less than sixty-six hundred dollars or more than one hundred fifty thousand dollars:

Basic Child Support Schedule

Combined Gross Income	Number of Children One	Two	Three	Four	Five	Six
6600	600	600	600	600	600	600
7200	600	600	600	600	600	600
7800	600	600	600	600	600	600
8400	600	600	600	600	600	600

9000849	859	868	878	887	896
96001259	1273	1287	1301	1315	1329
102001669	1687	1706	1724	1743	1761
108002076	2099	2122	2145	2168	2192
114002331	2505	2533	2560	2588	2616
120002439	2911	2943	2975	3007	3039
126002546	3318	3354	3390	3427	3463
132002654	3724	3765	3806	3846	3887
138002761	4029	4175	4221	4266	4311
144002869	4186	4586	4636	4685	4735
150002976	4342	4996	5051	5105	5159
156003079	4491	5321	5466	5524	5583
162003179	4635	5490	5877	5940	6003
168003278	4780	5660	6254	6355	6423
174003378	4924	5830	6442	6771	6843
180003478	5069	5999	6629	7186	7262
186003578	5213	6169	6816	7389	7682
192003678	5358	6339	7004	7592	8102
198003778	5502	6508	7191	7796	8341
204003878	5647	6678	7378	7999	8558
210003977	5790	6847	7565	8201	8774
216004076	5933	7015	7750	8402	8989
222004176	6075	7182	7936	8602	9204
228004275	6216	7345	8116	8798	9413
234004373	6357	7509	8297	8994	9623
240004471	6498	7672	8478	9190	9832
246004570	6639	7836	8658	9386	10042
252004668	6780	8000	8839	9582	10251
258004767	6920	8163	9020	9778	10461
264004865	7061	8327	9200	9974	10670
270004963	7202	8490	9381	10170	10880
276005054	7332	8642	9548	10351	11074
282005135	7448	8776	9697	10512	11246
288005216	7564	8911	9845	10673	11418
294005297	7678	9045	9995	10833	11592
300005377	7792	9179	10143	10994	11764
306005456	7907	9313	10291	11154	11936
312005535	8022	9447	10439	11315	12107
318005615	8136	9581	10587	11476	12279
324005694	8251	9715	10736	11636	12451

330005774	8366	9849	10884	11797	12623
336005853	8480	9983	11032	11957	12794
342005933	8595	10117	11180	12118	12966
348006012	8709	10251	11328	12279	13138
354006091	8824	10385	11476	12439	13310
360006171	8939	10519	11624	12600	13482
366006250	9053	10653	11772	12761	13653
372006330	9168	10787	11920	12921	13825
378006406	9275	10913	12058	13071	13988
384006447	9335	10984	12137	13156	14079
390006489	9395	11055	12215	13242	14170
396006530	9455	11126	12294	13328	14261
402006571	9515	11197	12373	13413	14353
408006613	9575	11268	12451	13499	14444
414006653	9634	11338	12529	13583	14534
420006694	9693	11409	12607	13667	14624
426006735	9752	11479	12684	13752	14714
432006776	9811	11549	12762	13836	14804
438006817	9871	11619	12840	13921	14894
444006857	9930	11690	12917	14005	14985
450006898	9989	11760	12995	14090	15075
456006939	10049	11830	13073	14174	15165
462006978	10103	11897	13146	14251	15250
468007013	10150	11949	13203	14313	15316
474007048	10197	12000	13260	14375	15382
480007083	10245	12052	13317	14437	15448
486007117	10292	12103	13374	14498	15514
492007152	10339	12155	13432	14560	15580
498007187	10386	12206	13489	14622	15646
504007222	10433	12258	13546	14684	15712
510007257	10481	12309	13603	14745	15778
516007291	10528	12360	13660	14807	15844
522007326	10575	12412	13717	14869	15910
528007361	10622	12463	13774	14931	15976
534007396	10669	12515	13832	14992	16042
540007431	10717	12566	13889	15054	16108
546007468	10765	12622	13946	15120	16178
552007524	10845	12716	14050	15232	16298
558007582	10929	12814	14159	15350	16425
564007643	11016	12918	14273	15474	16558

570007704	11104	13021	14388	15598	16691
576007765	11192	13125	14502	15722	16824
582007825	11277	13225	14613	15842	16953
588007883	11361	13324	14723	15961	17079
594007941	11445	13423	14832	16079	17206
600008000	11529	13522	14941	16197	17333
606008058	11612	13620	15050	16315	17460
612008116	11696	13719	15160	16433	17587
618008175	11780	13818	15269	16552	17714
624008233	11864	13917	15378	16670	17840
630008288	11945	14011	15481	16783	17958
636008344	12024	14102	15582	16893	18075
642008399	12103	14194	15683	17002	18193
648008454	12183	14285	15784	17111	18310
654008510	12262	14376	15885	17220	18427
660008565	12341	14468	15986	17330	18544
666008620	12421	14559	16087	17439	18661
672008676	12500	14650	16188	17548	18778
678008731	12579	14741	16289	17657	18895
684008786	12659	14833	16390	17767	19012
690008842	12738	14924	16491	17876	19129
696008897	12817	15015	16592	17985	19246
702008953	12897	15107	16693	18094	19363
708009008	12974	15196	16791	18201	19476
714009060	13047	15281	16885	18302	19585
720009111	13120	15366	16979	18404	19694
726009163	13194	15451	17073	18506	19803
732009214	13267	15536	17167	18608	19912
738009266	13340	15621	17261	18709	20021
744009318	13413	15706	17355	18811	20130
750009369	13487	15791	17449	18913	20239
756009421	13560	15876	17543	19015	20347
762009473	13633	15961	17636	19116	20456
768009524	13707	16046	17730	19218	20565
774009576	13780	16131	17824	19320	20674
780009627	13853	16216	17918	19422	20783
786009679	13927	16300	18012	19523	20892
792009731	14000	16385	18106	19625	21001
798009782	14073	16470	18200	19727	21109
804009834	14147	16555	18294	19829	21218

810009885	14220	16640	18387	19930	21326
816009936	14292	16723	18480	20030	21434
822009987	14364	16807	18573	20131	21541
8280010038	14439	16891	18665	20235	21651
8340010090	14514	16979	18762	20340	21763
8400010142	14589	17066	18859	20444	21875
8460010194	14663	17154	18956	20549	21987
8520010246	14738	17241	19052	20653	22099
8580010298	14813	17329	19149	20758	22211
8640010350	14887	17417	19246	20863	22323
8700010403	14962	17504	19343	20967	22435
8760010455	15037	17592	19440	21072	22547
8820010507	15111	17679	19537	21176	22659
8880010559	15186	17767	19633	21281	22771
8940010611	15261	17855	19730	21386	22883
9000010663	15335	17942	19827	21490	22995
9060010715	15410	18030	19924	21595	23107
9120010767	15485	18118	20021	21700	23219
9180010819	15559	18205	20118	21804	23331
9240010872	15634	18293	20215	21909	23443
9300010924	15709	18380	20311	22013	23555
9360010976	15783	18468	20408	22118	23667
9420011028	15858	18556	20505	22223	23779
9480011080	15933	18643	20602	22327	23891
9540011132	16007	18731	20699	22432	24003
9600011184	16082	18818	20796	22536	24115
9660011236	16157	18906	20892	22641	24227
9720011289	16231	18994	20989	22746	24339
9780011341	16306	19081	21086	22850	24451
9840011393	16381	19169	21183	22955	24563
9900011446	16450	19255	21279	23062	24676
9960011491	16516	19334	21366	23156	24777
10020011536	16583	19413	21453	23250	24878
10080011581	16649	19491	21539	23345	24978
10140011625	16714	19569	21625	23437	25077
10200011670	16779	19646	21710	23530	25177
10260011714	16844	19724	21796	23623	25276
10320011759	16909	19801	21881	23715	25375
10380011803	16974	19879	21967	23808	25475
10440011847	17039	19956	22052	23901	25574

10500011892	17104	20034	22138	23994	25673
10560011934	17167	20108	22220	24083	25769
10620011979	17232	20186	22305	24176	25868
10680012023	17297	20263	22391	24269	25968
10740012068	17362	20341	22476	24361	26067
10800012110	17425	20415	22559	24451	26162
10860012155	17490	20493	22644	24543	26262
10920012199	17555	20570	22730	24636	26361
10980012243	17620	20648	22815	24729	26460
11040012286	17683	20722	22897	24818	26556
11100012331	17748	20800	22983	24911	26655
11160012375	17813	20877	23068	25004	26755
11220012419	17878	20955	23154	25096	26854
11280012462	17941	21029	23236	25186	26949
11340012506	18006	21107	23322	25278	27049
11400012551	18071	21184	23407	25371	27148
11460012595	18136	21262	23493	25464	27247
11520012640	18202	21339	23578	25557	27347
11580012682	18264	21414	23660	25646	27442
11640012727	18329	21491	23746	25739	27542
11700012771	18394	21569	23831	25832	27641
11760012815	18460	21646	23917	25924	27740
11820012858	18522	21721	23999	26013	27836
11880012902	18587	21798	24084	26106	27935
11940012947	18652	21876	24170	26199	28034
12000012991	18718	21953	24256	26292	28134
12060013034	18780	22028	24338	26381	28229
12120013078	18845	22105	24423	26474	28329
12180013123	18910	22183	24509	26567	28428
12240013167	18976	22260	24594	26659	28527
12300013210	19038	22335	24676	26749	28623
12360013254	19103	22412	24762	26841	28722
12420013299	19168	22490	24847	26934	28821
12480013343	19234	22567	24933	27027	28921
12540013386	19296	22642	25015	27116	29016
12600013430	19361	22719	25101	27209	29115
12660013474	19426	22797	25186	27302	29215
12720013519	19492	22874	25272	27395	29314
12780013561	19554	22949	25354	27484	29410
12840013606	19619	23026	25439	27576	29509

12900013650	19684	23104	25525	27669	29608
12960013695	19750	23181	25610	27762	29708
13020013739	19815	23259	25696	27855	29807
13080013783	19879	23335	25780	27946	29905
13140013828	19945	23414	25868	28041	30007
13200013874	20012	23494	25955	28136	30108
13260013919	20079	23573	26043	28231	30210
13320013963	20143	23649	26127	28323	30308
13380014008	20210	23729	26215	28418	30410
13440014054	20276	23808	26302	28513	30511
13500014099	20343	23887	26390	28608	30613
13560014143	20407	23964	26474	28699	30711
13620014188	20474	24043	26561	28794	30813
13680014234	20541	24123	26649	28889	30914
13740014279	20607	24202	26737	28984	31016
13800014323	20671	24278	26821	29075	31114
13860014368	20738	24358	26908	29170	31215
13920014414	20805	24437	26996	29265	31317
13980014459	20872	24516	27083	29361	31419
14040014503	20936	24593	27168	29452	31517
14100014549	21002	24672	27255	29547	31618
14160014594	21069	24751	27343	29642	31720
14220014639	21136	24831	27430	29737	31822
14280014683	21200	24907	27515	29828	31920
14340014729	21267	24986	27602	29923	32021
14400014774	21333	25066	27690	30018	32123
14460014820	21400	25145	27777	30113	32225
14520014865	21467	25225	27865	30208	32327
14580014909	21531	25301	27949	30300	32424
14640014963	21596	25377	28041	30396	32526
14700015006	21659	25452	28124	30486	32622
14760015049	21722	25527	28207	30576	32718
14820015090	21782	25599	28286	30662	32810
14880015133	21845	25674	28369	30752	32907
14940015176	21908	25749	28452	30842	33003
15000015218	21971	25823	28534	30931	33099

(E) When a court or child support enforcement agency calculates the amount of child support that will be required to be paid pursuant to a child support order or an administrative child support order in a proceeding in which one parent is the residential parent and legal custodian of all of the

children who are the subject of the child support order or the court issues a shared parenting order, the court or child support enforcement agency shall use a worksheet that is identical in content and form to the following worksheet:

"Worksheet
..... County Domestic Relations Court (or)
..... County Child Support Enforcement Agency
Child Support Computation
Sole Residential Parent or
Shared Parenting Order

Name of parties .....
Case No. .....
Number of minor children ..... The following parent was designated as the residential parent and legal custodian (disregard if shared parenting order): ..... mother; ..... father.
Father has ..... pay periods annually; mother has ..... pay periods annually.

	Column I Father	Column II Mother	Column III Combined
1a. Annual gross income from employment or, when determined appropriate by the court or agency, average annual gross income from employment over a reasonable period of years (exclude overtime and bonuses).....	$.....	$.....	
b. Amount of overtime and bonuses	Father	Mother	
Yr. 3 (Three years ago)	$.....	$.....	
Yr. 2 (Two years ago)	$.....	$.....	
Yr. 1 (Last calendar year)	$.....	$.....	
Average:	$.....	$.....	
(Include in Column I and/or Column II the average of the three years or the year 1 amount, whichever is less, if there exists a	$.....	$.....	

reasonable expectation that the total earnings from overtime and/or bonuses during the current calendar year will meet or exceed the amount that is the lower of the average of the three years or the year 1 amount. If, however, there exists a reasonable expectation that the total earnings from overtime/bonuses during the current calendar year will be less than the lower of the average of the three years or the year 1 amount, include only the amount reasonably expected to be earned this year.).....		
2. Annual income from interest and dividends (whether or not taxable).....	$.....	$.....
3. Annual income from unemployment compensation.....	$.....	$.....
4. Annual income from workers' compensation or disability insurance benefits.....	$.....	$.....
5. Other annual income (identify).....	$.....	$.....
6. Total annual gross income (add lines 1-5).....	$.....	$.....
7. Annual court-ordered support paid for other children.....	$.....	$.....
8. Adjustment for minor children born to either parent and another parent, which children are living with this parent (number of children times federal income tax	$.....	$.....

exemption less child support received for the year, not to exceed the federal tax exemption).....			
9. Annual court-ordered spousal support paid to a former spouse.....	$.....	$.....	
10. Amount of local income taxes actually paid or estimated to be paid.....	$.....	$.....	
11. For self-employed individuals, deduct 5.6% of adjusted gross income or the actual marginal difference between the actual rate paid by the self-employed individual and the F.I.C.A. rate.....	$.....	$.....	
12. For self-employed individuals, deduct ordinary and necessary business expenses.....	$.....	$.....	
13. Total gross income adjustments (add lines 7-12).....	$.....	$.....	
14. Adjusted annual gross income (subtract line 13 from line 6).....	$.....	$.....	
15. Combined annual income that is basis for child support order (add line 14, Col. I and Col. II).....	.....		$.....
16. Percentage parent's income to total income			
a. Father (divide line 14, Col. I by line 15, Col. III)	.....%		
b. Mother (divide line 14, Col. II by line 15, Col. III)	.....	+ ..... %	= 100%
17. Basic combined child support obligation (Refer to basic child		$.....	

support schedule in division (D) of section 3113.215 of the Revised Code; in the first column of the schedule, locate the sum that is nearest to the combined annual income listed in line 15, Col. III of this worksheet, then refer to the column of the schedule that corresponds to the number of children in this family. If the income of the parents is more than one sum, and less than another sum, in the first column of the schedule, you may calculate the basic combined child support obligation based upon the obligation for those two sums.).....			
18. Annual child care expenses for the children who are the subject of this order that are work, employment training, or education related, as approved by the court or agency (deduct the tax credit from annual cost, whether or not claimed).....	$.....	$.....	
19. Marginal, out-of-pocket costs, necessary to provide for health insurance for the children who are the subject of this order.....	$.....	$.....	
20. Total child care and medical expenses (add lines 18 and 19, Column I and Column II).....	$.....	$.....	
21. Combined annual child support obligation for this family (add lines 17 and 20, Column I and Column	.....		$.....

.....

22. Annual support obligation/parent		
a. Father (multiply line 21, Col. III, by line 16a).....	$.....	
b. Mother (multiply line 21, Col. III, by line 16b).....		$.....
23. Adjustment for actual expenses paid for annual child care expenses and marginal, out-of-pocket costs, necessary to provide for health insurance (enter number from line 18 or 19 if applicable).....	$.....	$.....
24. Actual annual obligation (subtract line 23 from line 22a or 22b).....	$.....	$.....
25. Gross household income per party after exchange of child support (add lines 14 and 24 Column I or II for residential parent or, in the case of shared parenting order, the parent to whom child support will be paid; subtract line 24 Column I or II from line 14 for parent who is not the residential parent or, in the case of shared parenting order, the parent who will pay child support).....	$.....	$.....
26. Comments, rebuttal, or adjustments to correct figures in lines 24, Column I and 24, Column II if they would be unjust or inappropriate and would not be in best interest of the child or children (specific facts to support	$.....	$.....

adjustments must be included)..... (Addendum sheet may be attached)		
27. Final figure (this amount reflects final annual child support obligation).....	$.....	father/mother obligor
28. For decree: child support per child per week or per month (divide obligor's annual share, line 27, by 12 or 52 and by number of children).....	$.....	
29. For deduction order: child support per pay period (calculate support per pay period from figure on line 28) plus appropriate processing charge. Calculations have been reviewed.	$.....	

Signatures .....

Father

I do/do not consent.

Sworn to before me and subscribed in my presence, this ..... day of ....., 19...

.....

Notary Public

.....

Mother

I do/do not consent.

Sworn to before me and subscribed in my presence, this ..... day of ....., 19...

.....

Notary Public

....

Attorney for Father Attorney for Mother"

(F) When a court or child support enforcement agency calculates the amount of child support that will be required to be paid pursuant to a child support order in a proceeding in which both parents have split parental rights and responsibilities with respect to the children who are the subject of the child support order, the court or child support enforcement agency shall use a worksheet that is identical in content and form to the following

worksheet:

"Worksheet
..... County Domestic Relations Court (or)
..... County Child Support Enforcement Agency
Child Support Computation
Split Parental Rights and Responsibilities

Name of parties .....
Case No. .....
Number of minor children ..... The following parent was designated residential parent and legal custodian:
..... mother; ..... father.
Father has ..... pay periods annually; mother has ..... pay periods annually.

	Column I Father	Column II Mother	Column III Combined
1a. Annual gross income from employment or, when determined to be appropriate by the court or agency, average annual gross income from employment over a reasonable period of years (exclude overtime and bonuses).....	$.....	$.....	
b. Amount of overtime and bonuses	Father	Mother	
Yr. 3 (Three years ago)	$.....	$.....	
Yr. 2 (Two years ago)	$.....	$.....	
Yr. 1 (Last calendar year)	$.....	$.....	
Average:	$.....	$.....	
(Include in Column I and/or Column II the average of the three years or the year 1 amount, whichever is less, if there exists a reasonable expectation that the total earnings from overtime and/or bonuses during the current calendar year will meet or exceed	$.....	$.....	

the amount that is the lower of the average of the three years or the year 1 amount. If, however, there exists a reasonable expectation that the total earnings from overtime/bonuses during the current calendar year will be less than the lower of the average of the three years or the year 1 amount, include only the amount reasonably expected to be earned this year.).....		
2. Annual income from interest and dividends (whether or not taxable).....	$.....	$.....
3. Annual income from unemployment compensation.....	$.....	$.....
4. Annual income from workers' compensation or disability insurance benefits.....	$.....	$.....
5. Other annual income (identify).....	$.....	$.....
6. Total annual gross income (add lines 1-5).....	$.....	$.....
7. Annual court-ordered support paid for other children.....	$.....	$.....
8. Adjustment for minor children born to either parent and another parent, which children are living with this parent (number of children times federal income tax exemption less child support received for the year, not to exceed the federal tax exemption).....	$.....	$.....

9. Annual court-ordered spousal support paid to a former spouse.....	$.....	$.....		
10. Amount of local income taxes actually paid or estimated to be paid.....	$.....	$.....		
11. For self-employed individuals, deduct 5.6% of adjusted gross income or the actual marginal difference between the actual rate paid by the self-employed individual and the F.I.C.A. rate.....	$.....	$.....		
12. For self-employed individuals, deduct ordinary and necessary business expenses.....	$.....	$.....		
13. Total gross income adjustments (add lines 7-12).....	$.....	$.....		
14. Adjusted annual gross income (subtract line 13 from line 6).....	$.....	$.....		
15. Combined annual income that is basis for child support order (add line 14, Col. I and Col. II).....			$.....	
16. Percentage parent's income to total income				
a. Father (divide line 14, Col. I by line 15, Col. III)	.....%			
b. Mother (divide line 14, Col. II by line 15, Col. III).....		+ .....%	= 100%	
17. Basic combined child support obligation/household				
a. For children for whom the father is the residential parent and legal custodian (Refer to basic			$.....	

ld support schedule in division (D) of section 3113.215 of the Revised Code; in the first column of the schedule, locate the sum that is nearest to the combined annual income listed in line 15, Col. III of this worksheet, then refer to the column of the schedule that corresponds to the number of children for whom the father is the residential parent and legal custodian. If the income of the parents is more than one sum, and less than another sum, in the first column of the schedule, you may calculate the basic combined child support obligation based upon the obligation for those two sums.).....

b. For children for whom the mother is the residential parent and the legal custodian. (Refer to basic child support schedule in division (D) of section 3113.215 of the Revised Code; in the first column of the schedule, locate the sum that is nearest to the combined annual income listed in line 15, Col. III of this worksheet, then refer to the column of the schedule that corresponds to the number of children for whom the mother is the residential parent and the legal custodian. If the income of the parents is more than one sum, and less than another sum, in the first column of the schedule, you may calculate the basic combined child support obligation based $.....

upon the obligation for those two sums.).....

18. Annual child care expenses for the children who are the subject of this order that are work, employment training, or education related, as approved by the court or agency (deduct the tax credit from annual cost, whether or not claimed)

a. Expenses paid by the father..... $.....

b. Expenses paid by the mother..... $.....

19. Marginal, out-of-pocket costs, necessary to provide for health insurance for the children who are the subject of this order

a. Costs paid by the father..... $.....

b. Costs paid by the mother..... $.....

20. Total annual child care and medical expenses

a. Of father (add lines 18a and 19a)..... $.....

b. Of mother (add lines 18b and 19b)..... $.....

21. Total annual child support obligation

a. Of father for child(ren) for whom the mother is the residential parent and legal custodian (add lines 20a and 17b and multiply by line 16a)..... $.....

b. Of mother for child(ren) for whom the father is the residential parent and legal custodian (add lines 20b and 17a and multiply by $.....

line 16b).....		
22. Adjustment for actual expenses paid for annual child care expenses, and marginal, out-of-pocket costs, necessary to provide for health insurance		
a. For father (enter number from line 20a).....	$.....	
b. For mother (enter number from line 20b).....		$.....
23. Actual annual obligation (subtract line 22a from line 21a and insert in Column I; subtract line 22b from line 21b and insert in Column II).....	$.....	$.....
24. Net annual support obligation (greater amount on line 23 Column I or line 23 Column II minus lesser amount on line 23 Column I or line 23 Column II).....	$.....	$.....
25. Gross household income per party after exchange of child support..... (add line 14 and line 24 for the parent receiving a child support payment; subtract line 24 from line 14 for the parent making a child support payment)	$.....	$.....
26. Comments, rebuttal, or adjustments to correct figures in lines 24, Column I and 24, Column II if they would be unjust or inappropriate and would not be in best interest of the children (specific facts to support	$.....	$.....

ents must be
included).....
(Addendum sheet may be attached)
27. Final figure (this amount reflects final annual child support obligation)..... $..... father/mother obligor
28. For decree: child support per child per week or per month (divide obligor's annual share, line 27, by 12 or 52 and by the number of children)..... $.....
29. For deduction order: child support per day (calculate support per pay period from figure on line 28) and add appropriate processing charge. $.....
Calculations have been reviewed.
Signatures .....
Father
I do/do not consent.

Sworn to before me and subscribed in my presence, this ..... day of ....., 19...

.....
Notary Public

.....
Mother
I do/do not consent.

Sworn to before me and subscribed in my presence, this ..... day of ....., 19...

.....
Notary Public

....
Attorney for Father Attorney for Mother"

(G) At least once every four years, the department of ~~human~~ job and family services shall review the basic child support schedule set forth in division (D) of this section to determine whether support orders issued in accordance with the schedule and the applicable worksheet in division (E) of this section, through line 24, or in division (F) of this section, through line 23, adequately provide for the needs of the children who are subject to the

support orders, prepare a report of its review, and submit a copy of the report to both houses of the general assembly. For each review, the department shall establish a child support guideline advisory council to assist the department in the completion of its reviews and reports. Each council shall be composed of obligors, obligees, judges of courts of common pleas who have jurisdiction over domestic relations cases, attorneys whose practice includes a significant number of domestic relations cases, representatives of child support enforcement agencies, other persons interested in the welfare of children, three members of the senate appointed by the president of the senate, no more than two of whom are members of the same party, and three members of the house of representatives appointed by the speaker of the house, no more than two of whom are members of the same party. The department shall consider input from the council prior to the completion of any report under this section. The advisory council shall cease to exist at the time that it submits its report to the general assembly. Any expenses incurred by an advisory council shall be paid by the department.

On or before March 1, 1993, the department shall submit its initial report under this division to both houses of the general assembly. On or before the first day of March of every fourth year after 1993, the department shall submit a report under this division to both houses of the general assembly.

Sec. 3113.216. (A) As used in this section, "obligor" and "obligee" have the same meanings as in section 3113.21 of the Revised Code.

(B) No later than October 13, 1990, the ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code establishing a procedure for determining when existing child support orders should be reviewed to determine whether it is necessary and in the best interest of the children who are the subject of the child support order to change the child support order. The rules shall include, but are not limited to, all of the following:

(1) Any procedures necessary to comply with section 666(a)(10) of Title 42 of the U.S. Code, "Family Support Act of 1988," 102 Stat. 2346, 42 U.S.C. 666(a)(10), as amended, and any regulations adopted pursuant to, or to enforce, that section;

(2) Procedures for determining what child support orders are to be subject to review upon the request of either the obligor or the obligee or periodically by the child support enforcement agency administering the child support order;

(3) Procedures for the child support enforcement agency to periodically

review and to review, upon the request of the obligor or the obligee, any child support order that is subject to review to determine whether the amount of child support paid under the child support order should be adjusted in accordance with the basic child support schedule set forth in division (D) of section 3113.215 of the Revised Code or whether the provisions for the child's health care needs under the child support order should be modified in accordance with section 3113.217 of the Revised Code;

(4) Procedures for giving obligors and obligees notice of their right to request a review of a child support order that is determined to be subject to review, notice of any proposed revision of the amount of child support to be paid under the child support order, notice of the procedures for requesting a hearing on any proposed revision of the amount of child support to be paid under a child support order, notice of any administrative hearing to be held on a proposed revision of the amount of child support to be paid under a child support order, at least sixty days' prior notice of any review of their child support order, and notice that a failure to comply with any request for documents or information to be used in the review of a child support order is contempt of court;

(5) Procedures for obtaining the necessary documents and information necessary to review child support orders and for holding administrative hearings on a proposed revision of the amount of child support to be paid under a child support order;

(6) Procedures for adjusting child support orders in accordance with the basic child support schedule set forth in division (D) of section 3113.215 of the Revised Code and the applicable worksheet in division (E) of that section, through line 24, or in division (F) of that section, through line 23;

(7) Procedures for adjusting the provisions of the child support order governing the health care needs of the child pursuant to section 3113.217 of the Revised Code.

(C)(1) If a child support enforcement agency, periodically or upon request of an obligor or obligee, plans to review a child support order in accordance with the rules adopted pursuant to division (B) of this section or otherwise plans to review a child support order, it shall do all of the following prior to formally beginning the review:

(a) Establish a date certain upon which the review will formally begin;

(b) At least sixty days before formally beginning the review, send the obligor and the obligee notice of the planned review and of the date when the review will formally begin;

(c) Request the obligor to provide the agency, no later than the

scheduled date for formally beginning the review, with a copy of the obligor's federal income tax return from the previous year, a copy of all pay stubs obtained by the obligor within the preceding six months, a copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligor within the preceding six months, a list of the group health insurance and health care policies, contracts, and plans available to the obligor and their costs, the current health insurance or health care policy, contract, or plan under which the obligor is enrolled and its cost, and any other information necessary to properly review the child support order, and request the obligee to provide the agency, no later than the scheduled date for formally beginning the review, with a copy of the obligee's federal income tax return from the previous year, a copy of all pay stubs obtained by the obligee within the preceding six months, a copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligee within the preceding six months, a list of the group health insurance and health care policies, contracts, and plans available to the obligee and their costs, the current health insurance or health care policy, contract, or plan under which the obligee is enrolled and its cost, and any other information necessary to properly review the child support order;

(d) Include in the notice sent pursuant to division (C)(1)(b) of this section, a notice that a willful failure to provide the documents and other information requested pursuant to division (C)(1)(c) of this section is contempt of court.

(2) If either the obligor or the obligee fails to comply with a request for information made pursuant to division (C)(1)(c) of this section, it is contempt of court, and the agency shall notify the court of the failure to comply with the request for information. The agency may request the court to issue an order requiring the obligor or the obligee to provide the information as requested or take whatever action is necessary to obtain the information and make any reasonable assumptions necessary with respect to the information the person in contempt of court did not provide to ensure a fair and equitable review of the child support order. If the agency decides to conduct the review based on reasonable assumptions with respect to the information the person in contempt of court did not provide, it shall proceed under division (C)(3) of this section in the same manner as if all requested information has been received.

(3) Upon the date established pursuant to division (C)(1)(a) of this section for formally beginning the review of a child support order, the agency shall review the child support order and shall do all of the following:

(a) Calculate a revised amount of child support to be paid under the child support order;

(b) Give the obligor and obligee notice of the revised amount of child support to be paid under the child support order, of their right to request an administrative hearing on the revised amount of child support, of the procedures and time deadlines for requesting the hearing, and that the revised amount of child support will be submitted to the court for inclusion in a revised child support order unless the obligor or obligee requests an administrative hearing on the proposed change within thirty days after receipt of the notice under this division;

(c) If neither the obligor nor the obligee timely requests an administrative hearing on the revised amount of child support to be paid under the child support order, submit the revised amount of child support to the court for inclusion in a revised child support order;

(d) If the obligor or the obligee timely requests an administrative hearing on the revised amount of child support to be paid under the child support order, the agency shall schedule a hearing on the issue, give the obligor and obligee notice of the date, time, and location of the hearing, conduct the hearing in accordance with the rules adopted under division (B) of this section, redetermine at the hearing a revised amount of child support to be paid under the child support order, and give notice of all of the following to the obligor and obligee:

(i) The revised amount of child support to be paid under the child support order;

(ii) That they may request a court hearing on the revised amount of child support;

(iii) That the agency will submit the revised amount of child support to the court for inclusion in a revised child support order, if neither the obligor nor the obligee requests a court hearing on the revised amount of child support.

(e) If neither the obligor nor the obligee requests a court hearing on the revised amount of child support to be paid under the child support order, submit the revised amount of child support to the court for inclusion in a revised child support order.

(4) In calculating a revised amount of child support to be paid under a child support order under division (C)(3)(a) of this section, and in redetermining, at an administrative hearing conducted under division (C)(3)(d) of this section, a revised amount of child support to be paid under a child support order, the child support enforcement agency shall consider, in addition to all other factors required by law to be considered, the

following:

(a) The appropriate person, whether it is the obligor, obligee, or both, to be required in accordance with section 3113.217 of the Revised Code to provide health insurance coverage for the children specified in the order;

(b) The cost of health insurance coverage which the obligor, the obligee, or both have been ordered to obtain in accordance with section 3113.217 of the Revised Code for the children specified in the order.

(D) If an obligor or obligee files a request for a court hearing on a revised amount of child support to be paid under a child support order in accordance with division (C) of this section and the rules adopted under division (B) of this section, the court shall conduct a hearing in accordance with division (C)(1)(c) of section 3113.21 of the Revised Code.

(E) A child support enforcement agency is not required to review a child support order pursuant to this section if the review is not otherwise required by section 666(a)(10) of Title 42 of the U.S. Code, "Family Support Act of 1988," 102 Stat. 2346, 42 U.S.C. 666(a)(10), as amended, and any regulations adopted pursuant to, or to enforce, that section and if either of the following apply:

(1) The obligee has made an assignment under section 5107.20 of the Revised Code of the right to receive child support payments, the agency determines that the review would not be in the best interest of the children who are the subject of the child support order, and neither the obligor nor the obligee has requested that the review be conducted;

(2) The obligee has not made an assignment under section 5107.20 of the Revised Code of the right to receive child support payments, and neither the obligor nor the obligee has requested that the review be conducted.

Sec. 3113.99. (A) For purposes of this section:

(1) "Child support order" means an order for support issued or modified under Chapter 3115. or section 2151.23, 2151.231, 2151.232, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3111.13, 3113.04, 3113.07, 3113.216, or 3113.31 of the Revised Code.

(2) "Obligor" means a person who is required to pay support under a child support order.

(B) Whoever violates section 3113.06 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of section 3113.06 of the Revised Code or if the court finds that the offender has failed to pay the cost of child maintenance under section 3113.06 of the Revised Code for a total accumulated period of twenty-six weeks out of one hundred four consecutive weeks, whether or not the twenty-six weeks were consecutive, a

violation of section 3113.06 of the Revised Code is a felony of the fifth degree.

(C) An obligor who violates division (D)(1)(c) of section 3113.21 of the Revised Code shall be fined not more than fifty dollars for a first offense, not more than one hundred dollars for a second offense, and not more than five hundred dollars for each subsequent offense.

(D) An obligor who violates division (G)(2) of section 3113.21 of the Revised Code shall be fined not more than fifty dollars for a first offense, not more than one hundred dollars for a second offense, and not more than five hundred dollars for each subsequent offense.

(E) A fine amount imposed pursuant to division (C) or (D) of this section shall be paid to the division of child support in the department of ~~human~~ job and family services or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency. The amount of the fine that does not exceed the amount of arrearage under the child support order shall be disbursed in accordance with the child support order. The amount of the fine that exceeds the amount of the arrearage order shall be called program income and collected in accordance with section 5101.325 of the Revised Code.

Sec. 3115.21. (A) The ~~state~~ department of ~~human~~ job and family services is the state information agency under sections 3115.01 to 3115.59 of the Revised Code.

(B) The state information agency shall do all of the following:

(1) Compile a list, including addresses, of the tribunals in this state and each support enforcement agency in this state and transmit a copy to the state information agency of every other state that has adopted an act substantially similar to sections 3115.01 to 3115.59 of the Revised Code;

(2) Maintain a register of tribunals and support enforcement agencies received from other states;

(3) Forward to the appropriate tribunal in this state that has jurisdiction over the individual obligee or the obligor or the obligor's property, all documents concerning a proceeding under sections 3115.01 to 3115.59 of the Revised Code received from an initiating tribunal or the state information agency of the initiating state;

(4) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state parent locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital

tistics, law enforcement, taxation, motor vehicles, drivers' licenses, and social security benefits.

Sec. 3115.31. (A) If a support order entitled to recognition under sections 3115.01 to 3115.59 of the Revised Code has not been issued, a responding tribunal of this state may issue a support order if either of the following apply:

(1) The individual seeking the order resides in another state;

(2) The support enforcement agency seeking the order is located in another state.

(B) The tribunal may issue a temporary child support order if any of the following apply:

(1) The defendant has signed a verified statement acknowledging that the defendant is the parent of the child;

(2) The defendant has been determined by or pursuant to law to be the parent;

(3) There is other clear and convincing evidence that the defendant is the child's parent.

(C)(1) If the responding tribunal finds, after giving notice and an opportunity to be heard to the obligor, that the obligor owes a duty of support, it shall issue a support order directed to the obligor and may issue any other order under section 3115.16 of the Revised Code. Support orders made pursuant to sections 3115.01 to 3115.59 of the Revised Code shall require that payments be made to the division of child support in the department of ~~human~~ job and family services.

(2) The responding tribunal shall transmit to the initiating tribunal a copy of all orders of support or for reimbursement of support.

(3) Each order for support made or modified under section 3115.16 of the Revised Code, this section, and ~~under~~ former section 3115.22 of the Revised Code on or after December 31, 1993, shall include as part of the order a general provision, as described in division (A)(1) of section 3113.21 of the Revised Code, requiring the withholding or deduction of income or assets of the obligor under the order as described in division (D) of section 3113.21 of the Revised Code or another type of appropriate requirement as described in division (D)(3), (D)(4), or (H) of that section, to ensure that withholding or deduction from the income or assets of the obligor is available from the commencement of the support order for collection of the support and of any arrearages that occur; a statement requiring all parties to the order to notify the support enforcement agency in writing of their current mailing address, current residence address, current residence telephone number, current driver's license number, and any changes to that

tion; and a notice that the requirement to notify the agency of all changes to that information continues until further notice from the tribunal. Any tribunal that makes or modifies an order for support under this section or former section 3115.22 of the Revised Code on or after April 12, 1990, shall comply with sections 3113.21 to 3113.219 of the Revised Code. If any person required to pay child support under an order made under this section or former section 3115.22 of the Revised Code on or after April 15, 1985, or any person required to pay support under an order made or modified under this section or former section 3115.22 of the Revised Code on or after December 31, 1986, is found in contempt of court for failure to make support payments under the order, the tribunal that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the tribunal, that arose in relation to the act of contempt.

Sec. 3301.15. The state board of education or its authorized representatives may inspect all institutions under the control of the department of ~~human~~ job and family services, the department of mental health, the department of mental retardation and developmental disabilities, and the department of rehabilitation and correction which employ teachers, and may make a report on the teaching, discipline, and school equipment in these institutions to the director of ~~human~~ job and family services, the director of mental health, the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, and the governor.

Sec. 3301.32. (A)(1) The chief administrator of any head start agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the head start agency for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from

the federal bureau of investigation in the criminal records check.

(2) Any person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the chief administrator requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheets with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the head start agency shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with division (E) of this section, no head start agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date, ~~,~~ a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious

sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A ~~head-start~~ head start agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each head start agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the chief administrator of the head start agency.

(2) A head start agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the head start agency will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the head start agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a head start agency may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to

litation set by the ~~department~~ director.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a head start agency as a person responsible for the care, custody, or control of a child.

(2) "Head start agency" has the same meaning as in section 3301.31 of the Revised Code.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(4) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 3301.53. (A) Not later than July 1, 1988, the state board of education, in consultation with the director of ~~human~~ job and family services, shall formulate and prescribe by rule adopted under Chapter 119. of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county MR/DD boards, eligible nonpublic schools, head start grantees, and head start delegate agencies. The rules shall include the following:

(1) Standards ensuring that the preschool program is located in a safe and convenient facility that accommodates the enrollment of the program, is of the quality to support the growth and development of the children according to the program objectives, and meets the requirements of section 3301.55 of the Revised Code;

(2) Standards ensuring that supervision, discipline, and programs will be administered according to established objectives and procedures;

(3) Standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided inservice education without discrimination on the basis of age, color, national origin, race, or sex; and that preschool staff members and nonteaching employees are assigned responsibilities in accordance with written position descriptions commensurate with their training and experience;

(4) A requirement that boards of education intending to establish a preschool program on or after March 17, 1989, demonstrate a need for a preschool program that is not being met by any existing program providing child day-care, prior to establishing the program;

(5) Requirements that children participating in preschool programs have been immunized to the extent considered appropriate by the state board to prevent the spread of communicable disease;

(6) Requirements that the parents of preschool children complete the emergency medical authorization form specified in section 3313.712 of the Revised Code.

(B) The state board of education in consultation with the director of ~~human~~ job and family services shall ensure that the rules adopted by the state board under sections 3301.52 to 3301.58 of the Revised Code are consistent with and meet or exceed the requirements of Chapter 5104. of the Revised Code with regard to child day-care centers. The state board and the director of ~~human~~ job and family services shall review all such rules at least once every five years.

(C) On or before January 1, 1992, the state board of education, in consultation with the ~~department~~ director of ~~human~~ job and family services, shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for school child day-care centers under Chapter 5104. of the Revised Code.

Sec. 3301.57. (A) For the purpose of improving programs, facilities, and implementation of the standards promulgated by the state board of education under section 3301.53 of the Revised Code, the state department of education shall provide consultation and technical assistance to school districts, county MR/DD boards, eligible nonpublic schools, head start grantees, and head start delegate agencies operating preschool programs or school child programs, and inservice training to preschool staff members, school child program staff members, and nonteaching employees.

(B) The department and the school district board of education, county MR/DD board, eligible nonpublic school, head start grantee, or head start delegate agency shall jointly monitor each preschool program and each school child program.

If the program receives any grant or other funding from the state or federal government, the department annually shall monitor all reports on attendance, financial support, and expenditures according to provisions for use of the funds.

(C) The department of ~~human~~ job and family services and the department of education shall enter into a contract pursuant to which the

department of education inspects preschool programs and school child programs in accordance with sections 3301.52 to 3301.59 of the Revised Code, the rules adopted under those sections, and any applicable procedures in Chapter 5104. of the Revised Code and investigates any complaints filed pursuant to those sections or rules. The contract shall require the department of ~~human~~ job and family services to pay the department of education for conducting the inspections and investigations an amount equal to the amount that the department of ~~human~~ job and family services would expend conducting the same number of inspections and investigations with its employees under Chapter 5104. of the Revised Code.

(D) The department of education, at least twice during every twelve-month period of operation of a preschool program or a licensed school child program, shall inspect the program and provide a written inspection report to the superintendent of the school district, county MR/DD board, eligible nonpublic school, head start grantee, or head start delegate agency. At least one inspection shall be unannounced, and all inspections may be unannounced. No person shall interfere with any inspection conducted pursuant to this division or to the rules adopted pursuant to sections 3301.52 to 3301.59 of the Revised Code.

Upon receipt of any complaint that a preschool program or a licensed school child program is out of compliance with the requirements in sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department shall investigate and may inspect the program.

(E) If a preschool program or a licensed school child program is determined to be out of compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department of education shall notify the appropriate superintendent, county MR/DD board, eligible nonpublic school, head start grantee, or head start delegate agency in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, it may commence action under Chapter 119. of the Revised Code to close the program or to revoke the license of the program. If a program does not comply with an order to cease operation issued in accordance with Chapter 119. of the Revised Code, the department shall notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the program is located that the program is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and

in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer shall file a complaint in the court of common pleas of the county in which the program is located requesting the court to issue an order enjoining the program from operating. The court shall grant the requested injunctive relief upon a showing that the program named in the complaint is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code.

(F) The department of education shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 3301.581. Each head start grantee, head start delegate agency, and eligible nonpublic school operating a head start program shall be licensed by the department of education as a preschool program under sections 3301.52 to 3301.59 of the Revised Code, and does not have the option of being licensed by the department of ~~human~~ job and family services under Chapter 5104. of the Revised Code. Before the expiration of any grantee's, agency's, or school's license under that chapter, or within six months after ~~the effective date of this section~~ January 1, 1998, whichever is earlier, the agency or school shall apply for a license for a preschool program under section 3301.58 of the Revised Code. Notwithstanding division (C) of section 3301.58 of the Revised Code, a grantee, agency, or school applying for a license for a head start program during the six months following ~~the effective date of this section~~ January 1, 1998, need not first obtain a provisional license under that division.

Sec. 3301.59. (A) No school child program may receive any state or federal funds specifically allocated for school child programs unless the school child program is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code or by the department of ~~human~~ job and family services pursuant to Chapter 5104. of the Revised Code.

(B) If an eligible nonpublic school is operating, managing, conducting, or maintaining a preschool program or school child program on ~~the effective date of this section~~ JULY 22, 1991, and if the eligible nonpublic school

previously obtained a license for the program from the department of ~~human~~ job and family services pursuant to Chapter 5104. of the Revised Code, the eligible nonpublic school shall do one of the following:

(1) On or before the expiration date of the license, apply pursuant to Chapter 5104. of the Revised Code to the department of ~~human~~ job and family services for a renewal of the license;

(2) On or before the expiration date of the license, apply pursuant to sections 3301.52 to 3301.59 of the Revised Code to the department of education for a license for the program;

(3) If the program is a preschool program, cease to operate, manage, conduct, or maintain the program;

(4) If the program is a school child program, not accept any state or federal funds specifically allocated for school child programs and not accept any state or federal funds for publicly funded child day-care pursuant to Chapter 5104. of the Revised Code.

(C) If an eligible nonpublic school is operating, managing, conducting, or maintaining a preschool program or school child program on ~~the effective date of this section~~ JULY 22, 1991, and if the eligible nonpublic school previously has not obtained a license for the program from the department of ~~human~~ job and family services pursuant to Chapter 5104. of the Revised Code, the eligible nonpublic school shall do one of the following:

(1) On ~~the effective date of this section~~ JULY 22, 1991, apply pursuant to Chapter 5104. of the Revised Code to the department of ~~human~~ job and family services for a license for the program;

(2) On ~~the effective date of this section~~ JULY 22, 1991, apply pursuant to sections 3301.52 to 3301.59 of the Revised Code to the department of education for a license for the program;

(3) If the program is a preschool program, cease to operate, manage, conduct, or maintain the program;

(4) If the program is a school child program, not accept any state or federal funds specifically allocated for school child programs and not accept any state or federal funds for publicly funded child day-care pursuant to Chapter 5104. of the Revised Code.

(D)(1) If an eligible nonpublic school that operates, manages, conducts, or maintains a preschool program or a school child program elects pursuant to division (B)(1) of this section to renew a license for the program that was issued by the department of ~~human~~ job and family services or elects pursuant to division (C)(1) of this section to apply to the department of ~~human~~ job and family services for a license for the program, that preschool program or school child program is subject to Chapter 5104. of the Revised

Code and to licensure under that chapter until the eligible nonpublic school ceases to operate, manage, conduct, or maintain the program.

(2) If an eligible nonpublic school that operates, manages, conducts, or maintains a preschool program or a school child program elects pursuant to division (B)(2) or (C)(2) of this section to apply to the department of education for a license for the program, that preschool program or school child program is subject to sections 3301.52 to 3301.59 of the Revised Code and to licensure under those sections until the eligible nonpublic school ceases to operate, manage, conduct, or maintain the program.

(E) Not later than ~~one year after the effective date of this section~~ JULY 22, 1992, the departments of ~~human~~ job and family services and education shall each prepare a list of the preschool programs and school child programs that are licensed by the respective departments.

Sec. 3304.231. There is hereby created a brain injury advisory committee, which shall advise the administrator of the rehabilitation services commission and the brain injury program with regard to unmet needs of survivors of brain injury, development of programs for survivors and their families, establishment of training programs for health care professionals, and any other matter within the province of the brain injury program. The committee shall consist of not less than eighteen and not more than twenty-one members as follows:

(A) Not less than ten and not more than twelve members appointed by the administrator of the rehabilitation services commission, including all of the following: a survivor of brain injury, a relative of a survivor of brain injury, a licensed physician recommended by the Ohio chapter of the American college of emergency physicians, a licensed physician recommended by the Ohio state medical association, one other health care professional, a rehabilitation professional, an individual who represents the brain injury association of Ohio, and not less than three nor more than five individuals who shall represent the public;

(B) The directors of the departments of health, alcohol and drug addiction services, mental retardation and developmental disabilities, mental health, ~~human~~ job and family services, and highway safety; the administrator of workers' compensation; the superintendent of public instruction; and the administrator of the rehabilitation services commission. Any of the officials specified in this division may designate an individual to serve in the official's place as a member of the committee.

The director of health shall make initial appointments to the committee by November 1, 1990. Appointments made after July 26, 1991, shall be made by the administrator of the rehabilitation services commission. Terms

of office shall be two years. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Sec. 3307.21. (A) The treasurer of state shall furnish annually to the state teachers retirement board a sworn statement of the amount of the funds in the treasurer's custody belonging to the state teachers retirement system.

(B)(1) As used in this division, "personal history record" means information maintained by the board on a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's personal records provided for in section 3307.29 of the Revised Code;

(b) The individual's personal history record;

(c) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations under sections 3307.42, 3307.44, and 3307.49 of the Revised Code are privileged, except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician.

(D) Any person who is a member or contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B)(2) of this section, the board may furnish the following information:

(1) If a member, former member, retirant, contributor, or former contributor is subject to an order issued under section 2907.15 of the

ed Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3111.23 or 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of ~~human~~ job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(F) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3309.22. (A) The treasurer of state shall furnish annually to the school employees retirement board a sworn statement of the amount of the funds in the treasurer's custody belonging to the school employees retirement system.

(B)(1) As used in this division, "personal history record" means information maintained by the board on a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written

authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(C) All medical reports and recommendations required by the system are privileged except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(D) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3111.23 or 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of ~~human~~ job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each contributor whose name and social security number are the same as that of a person whose name or social security number was submitted by the director.

The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(F) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3313.714. (A) As used in this section:

(1) "Board of education" means the board of education of a city, local, exempted village, or joint vocational school district.

(2) "Healthcheck" means the early and periodic screening, diagnosis, and treatment program, a component of the medical assistance program established under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 302, as amended, and Chapter 5111. of the Revised Code.

(3) "Pupil" means a person under age twenty-two enrolled in the schools of a city, local, exempted village, or joint vocational school district.

(4) "Parent" means either parent with the following exceptions:

(a) If one parent has custody by court order, "parent" means the parent with custody.

(b) If neither parent has legal custody, "parent" means the person or government entity with legal custody.

(c) The child's legal guardian or a person who has accepted responsibility for the health, safety, and welfare of the child.

(B) At the request of the ~~state~~ department of ~~human~~ job and family services, a board of education shall establish and conduct a healthcheck program for pupils enrolled in the schools of the district who are recipients of medical assistance under Chapter 5111. of the Revised Code. At the request of a board of education, the ~~state~~ department may authorize the board to establish a healthcheck program. A board that establishes a healthcheck program shall enter into a medical assistance provider agreement with the ~~state~~ department.

A healthcheck program established by a board of education shall be conducted in accordance with rules adopted by the director of ~~human~~ job and family services under division (F) of this section. The healthcheck program shall include all of the following components:

(1) A comprehensive health and development history;

(2) A comprehensive physical examination;

(3) A developmental assessment;

(4) A nutritional assessment;

(5) A vision assessment;

(6) A hearing assessment;

(7) An immunization assessment;

(8) Lead screening and laboratory tests ordered by a doctor of medicine or osteopathic medicine as part of one of the other components;

(9) Such other assessment as may be required by the ~~state~~ department of ~~human~~ job and family services in accordance with the requirements of the healthcheck program.

All services included in a board of education's healthcheck program that the board provided under sections 3313.67, 3313.673, 3313.68, 3313.69, and 3313.71 of the Revised Code during the 1990-1991 school year shall continue to be provided to medical assistance recipients by the board pursuant to those sections. The services shall be considered part of the healthcheck program for recipients of medical assistance, and the board shall be eligible for reimbursement from the state department in accordance with this division for providing the services.

The ~~state~~ department shall reimburse boards of education for healthcheck program services provided under this division at the rates paid under the medical assistance program to physicians, dentists, nurses, and other providers of healthcheck services.

(C) Each board of education that conducts a healthcheck program shall determine for each pupil enrolled in the schools of the district whether the pupil is a medical assistance recipient. The ~~state~~ department of ~~human~~ job and family services and county departments of human services shall assist the board in making these determinations. Except as necessary to carry out the purposes of this section, all information received by a board under this division shall be confidential.

Before the first day of October of each year, each board that conducts a healthcheck program shall send the parent of each pupil who is under age eighteen and a recipient of medical assistance notice that the pupil will be examined under the district's healthcheck program unless the parent notifies the board that ~~he~~ the parent denies consent for the examination. The notice shall include a form to be used by the parent to indicate that ~~he~~ the parent denies consent. The denial shall be effective only if the form is signed by the parent and returned to the board or the school in which the pupil is enrolled. If the parent does not return a signed form indicating denial of consent within two weeks after the date the notice is sent, the school district and the department of ~~human~~ job and family services shall deem the parent to have

consented to examination of ~~his~~ the parent's child under the healthcheck program. In the case of a pupil age eighteen or older, the notice shall be given to the pupil, and the school district and the department of ~~human~~ job and family services shall deem the pupil to have consented to examination unless ~~he~~ the pupil returns the signed form indicating ~~his~~ the pupil's denial of consent.

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

(a) "Nonfederal share" means the portion of expenditures for services that is required under the medical assistance program to be paid for with state or local government funds.

(b) "Federal financial participation" means the portion of expenditures for services that is reimbursed under the medical assistance program with federal funds.

(2) At the request of a board of education, the state department may enter into an agreement with board under which the board provides medical services to a recipient of medical assistance that are reimbursable under the medical assistance program but not under the healthcheck program. The agreement may be for a term specified in the agreement and renewable by mutual consent of the board and the department, or may continue in force as long as agreeable to the board and the department.

The board shall use state or local funds of the district to pay the nonfederal share of expenditures for services provided under this division. Prior to entering into or renewing an agreement and at any other time requested by the ~~state~~ department while the agreement is in force, the board shall certify to the ~~state~~ department in accordance with the rules adopted under division (F) of this section that it will have sufficient state or local funds to pay the nonfederal share of expenditures under this division. If the board fails to make the certification, the ~~state~~ department shall not enter into or renew the agreement. If an agreement has been entered into, it shall be void unless the board makes the certification not later than fifteen days after receiving notice from the ~~state~~ department that the certification is due. The board shall report to the ~~state~~ department, in accordance with the rules, the amount of state or local funds it spends to provide services under this division.

The ~~state~~ department shall reimburse the board the federal financial participation allowed for the board's expenditures for services under this division. The total of the nonfederal share spent by the board and the federal financial participation reimbursed by the ~~state~~ department for a service rendered under this division shall be an amount agreed to by the board and the ~~state~~ department, but shall not exceed the maximum reimbursable for

that service under rules adopted by the ~~department~~ director of job and family services under Chapter 5111. of the Revised Code. The rules adopted under division (F) of this section shall include procedures under which the department will recover from a board overpayments and subsequent federal audit disallowances of federal financial participation reimbursed by the department.

(E) A board of education shall provide services under division (D) of this section and under its healthcheck program as provided in division (E)(1), (2), or (3) of this section:

(1) By having the services performed by physicians, dentists, AND nurses~~,~~ employed by the board;

(2) By contracting with physicians, dentists, nurses, and other providers of services who have medical assistance provider agreements with the ~~state~~ department of ~~human~~ job and family services;

(3) By having some of the services performed by persons described in division (E)(1) of this section and others performed by persons described in division (E)(2) of this section.

(F) The director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing healthcheck programs conducted under this section and services provided under division (D) of this section.

Sec. 3313.715. The board of education of a school district may request from the director of mental retardation and developmental disabilities the appropriate identification numbers for all students residing in the district who are medical assistance recipients under Chapter 5111. of the Revised Code. The director shall furnish such numbers upon receipt of lists of student names furnished by the district board, in such form as the director may require.

The director of ~~human~~ job and family services shall provide the director of mental retardation and developmental disabilities with the data necessary for compliance with this section.

Section 3319.321 of the Revised Code does not apply to the release of student names or other data to the director of mental retardation and developmental disabilities for the purposes of this section. Chapter 1347. of the Revised Code does not apply to information required to be kept by a school board or the ~~department~~ departments of ~~human~~ job and family services or mental retardation and developmental disabilities to the extent necessary to comply with this section and section 3313.714 of the Revised Code. However, any such information or data shall be used only for the specific legal purposes of such boards and departments and shall not be

released to any unauthorized person.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.

(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.

(4) "Applicable weight" means:

(a) For a student receiving special education and related services pursuant to an IEP for a handicap described in division (A) of section 3317.013 of the Revised Code, the multiple specified in that division;

(b) For a student receiving special education and related services pursuant to an IEP for a handicap described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, the multiple specified in division (B) of section 3317.013 of the Revised Code.

(5) "Total special education weight" means the sum of the following:

(a) The number of students reported under division (B)(2)(c) of this section who are entitled to attend school in the district, are enrolled in grades one through twelve in a community school, and are receiving from their community school special education and related services pursuant to an IEP for a handicap described in division (A) of section 3317.013 of the Revised Code, multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(b) One-half the number of students reported under division (B)(2)(c) of this section who are entitled to attend school in the district, are enrolled in kindergarten in a community school, and are receiving from their community school special education and related services pursuant to an IEP for a handicap described in division (A) of section 3317.013 of the Revised Code, multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(c) The number of students reported under division (B)(2)(c) of this section who are entitled to attend school in the district, are enrolled in grades one through twelve in a community school, and are receiving from their community school special education and related services pursuant to an IEP for a handicap described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;

(d) One-half the number of students reported under division (B)(2)(c) of

this section who are entitled to attend school in the district, are enrolled in kindergarten in a community school, and are receiving from their community school special education and related services pursuant to an IEP for a handicap described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code.

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) "DPIA reduction factor" means the percentage figure, if any, for reducing the per pupil amount of disadvantaged pupil impact aid a community school is entitled to receive pursuant to divisions (D)(4) and (5) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(8) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) and (B) of section 3317.013 and division (F)(3) of section 3317.02 of the Revised Code;

(d) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;

(e) The community school's base formula amount;

(f) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(g) Any DPIA reduction factor that applies to a school year.

(C) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code and, if necessary, sections 321.14 and 323.156 of the Revised Code, the department of education shall annually subtract all of the following:

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the base formula amount of that community school as adjusted by the school district's cost-of-doing-business factor.

(2) The product of the number of district students reported under division (B)(2)(c) of this section as enrolled in grades one through twelve, and one-half of the number of district students reported under that division as enrolled in kindergarten, who are receiving special education and related services pursuant to an IEP in their respective community schools for a handicap described in division (A) or (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, multiplied by the total special education weight;

(3) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school and residing in the district in a family participating in Ohio works first under Chapter 5107. of the Revised Code is multiplied by the per pupil amount of disadvantaged pupil impact aid the school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of that community school. If the district receives disadvantaged pupil impact aid under division (B) of that section, the per pupil amount of that aid is the quotient of the amount the district received under that division divided by the number of children ages five through seventeen residing in the district and living in a family participating in Ohio works first, as most recently reported under section 3317.10 of the Revised Code. If the district receives disadvantaged pupil impact aid under division (C) of section 3317.029 of the Revised Code, the per pupil amount of that aid is the per pupil dollar amount prescribed for the district in division (C)(1) or (2) of that section.

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(D) The department shall annually pay to a community school established under this chapter all of the following:

(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a) and (b) of this section who are not receiving special education and related services pursuant to an IEP for a handicap described in division (A) or (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code is multiplied by the community school's base formula amount, as adjusted by the cost-of-doing-business factor of the school district in which the student is entitled to attend school;

(2) The greater of the following:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described

in division (A) or (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, the following amount:

(the community school's base formula amount X the cost-of-doing-business factor of the district where the student is entitled to attend school) + (the applicable weight X the community school's base formula amount);

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a handicap described in division (A) or (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school and participating in Ohio works first is multiplied by the per pupil amount of disadvantaged pupil impact aid that school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(3) of this section.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section

.029 of the Revised Code shall be determined as described in division (C)(4) of this section.

(E) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in division (F)(3) of section 3317.02 of the Revised Code are twenty-five thousand dollars or more, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the school's costs for the student in excess of twenty-five thousand dollars.

The community school shall only report, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool handicapped or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (D) of this

section. The school may issue notes to evidence such borrowing to mature no later than the end of the fiscal year in which such money was borrowed. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(K) For purposes of determining the number of students for which divisions (D)(4) and (5) of this section applies in any school year, a community school may submit to the ~~state~~ department of ~~human~~ job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of ~~human~~ job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of ~~human~~ job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. For purposes of this section, a student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code.

Sec. 3317.029. (A) As used in this section:

(1) "DPIA percentage" means the quotient obtained by dividing the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving family assistance, as certified or adjusted under section 3317.10 of the Revised Code, by the district's three-year average formula ADM.

(2) "Family assistance" means assistance received under the Ohio works

first program or, for the purpose of determining the five-year average number of recipients of family assistance in fiscal years 1999 through 2002, assistance received under an antecedent program known as TANF or ADC.

(3) "Statewide DPIA percentage" means the five-year average of the total number of children ages five to seventeen years residing in the state and receiving family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.

(4) "DPIA index" means the quotient obtained by dividing the school district's DPIA percentage by the statewide DPIA percentage.

(5) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten.

(6) "Kindergarten through third grade ADM" means the amount calculated as follows:

(a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage;

(b) Add the number of students in grades one through three;

(c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three.

(7) "Statewide average teacher salary" means forty thousand one hundred eighty-seven dollars in fiscal year 2000, and forty-one thousand three hundred twelve dollars in fiscal year 2001, which includes an amount for the value of fringe benefits.

(8) "All-day kindergarten" means a kindergarten class that is in session five days per week for not less than the same number of clock hours each day as for pupils in grades one through six.

(9) "All-day kindergarten percentage" means the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten.

(10) "Buildings with the highest concentration of need" means the school buildings in a district with percentages of students receiving family assistance in grades kindergarten through three at least as high as the district-wide percentage of students receiving family assistance. If, however, the information provided by the department of ~~human~~ job and family services under section 3317.10 of the Revised Code is insufficient to determine the family assistance percentage in each building, "buildings with the highest concentration of need" has the meaning given in rules that the department of education shall adopt. The rules shall base the definition of "buildings with the highest concentration of need" on family income of students in grades kindergarten through three in a manner that, to the extent

possible with available data, approximates the intent of this division and division (G) of this section to designate buildings where the family assistance percentage in those grades equals or exceeds the district-wide family assistance percentage.

(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, a school district shall receive the greater of the amount the district received in fiscal year 1998 pursuant to division (B) of section 3317.023 of the Revised Code as it existed at that time or the sum of the computations made under divisions (C) to (E) of this section.

(C) A supplemental payment that may be utilized for measures related to safety and security and for remediation or similar programs, calculated as follows:

(1) If the DPIA index of the school district is greater than or equal to thirty-five-hundredths, but less than one, an amount obtained by multiplying the five-year average number of pupils in a district receiving family assistance by two hundred thirty dollars;

(2) If the DPIA index of the school district is greater than or equal to one, an amount obtained by multiplying the DPIA index by two hundred thirty dollars and multiplying that product by the five-year average number of pupils in a district receiving family assistance.

(D) A payment for all-day kindergarten if the DPIA index of the school district is greater than or equal to one or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:

(1) Determine or calculate a formula number of teachers per one thousand students based on the DPIA index of the school district as follows:

(a) If the DPIA index of the school district is less than six-tenths, the formula number of teachers is 43.478, which is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one;

(b) If the DPIA index of the school district is greater than or equal to six-tenths, but less than two and one-half, the formula number of teachers is calculated as follows:

43.478 + [(DPIA index-0.6)/~~1.97X~~ 1.9] X 23.188~~>~~

Where 43.478 is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one; 1.9 is the interval from a DPIA index of six-tenths to a DPIA index of two and one-half; and 23.188 is the

difference in the number of teachers per one thousand students at a student-teacher ratio of fifteen to one and the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one.

(c) If the DPIA index of the school district is greater than or equal to two and one-half, the formula number of teachers is 66.667, which is the number of teachers per one thousand students at a student-teacher ratio of fifteen to one.

(2) Multiply the formula number of teachers determined or calculated in division (E)(1) of this section by the kindergarten through third grade ADM for the district and divide that product by one thousand;

(3) Calculate the number of new teachers as follows:

(a) Multiply the kindergarten through third grade ADM by 43.478, which is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one, and divide that product by one thousand;

(b) Subtract the quotient obtained in division (E)(3)(a) of this section from the product in division (E)(2) of this section.

(4) Multiply the greater of the difference obtained under division (E)(3) of this section or zero by the statewide average teachers salary.

(F) This division applies only to school districts whose DPIA index is one or greater.

(1) Each school district subject to this division shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage.

(2) Up to an amount equal to the district's DPIA index multiplied by the five-year average number of pupils in a district receiving family assistance multiplied by two hundred thirty dollars of the money distributed under this section may be utilized for one or both of the following:

(a) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(b) Remediation for students who have failed or are in danger of failing any of the proficiency tests administered pursuant to section 3301.0710 of the Revised Code.

(3) Except as otherwise required by division (G) or permitted under division (K) of this section, all other funds distributed under this section to districts subject to this division shall be utilized for the purpose of the third grade guarantee. The third grade guarantee consists of increasing the amount of instructional attention received per pupil in kindergarten through third grade, either by reducing the ratio of students to instructional personnel or

by increasing the amount of instruction and curriculum-related activities by extending the length of the school day or the school year.

School districts may implement a reduction of the ratio of students to instructional personnel through any or all of the following methods:

(a) Reducing the number of students in a classroom taught by a single teacher;

(b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code;

(c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom.

Districts may extend the school day either by increasing the amount of time allocated for each class, increasing the number of classes provided per day, offering optional academic-related after-school programs, providing curriculum-related extra curricular activities, or establishing tutoring or remedial services for students who have demonstrated an educational need. In accordance with section 3319.089 of the Revised Code, a district extending the school day pursuant to this division may utilize a participant of the work experience program who has a child enrolled in a public school in that district and who is fulfilling the work requirements of that program by volunteering or working in that public school. If the work experience program participant is compensated, the school district may use the funds distributed under this section for all or part of the compensation.

Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs.

(G) Each district subject to division (F) of this section shall not expend any funds received under division (E) of this section in any school buildings that are not buildings with the highest concentration of need, unless there is a ratio of instructional personnel to students of no more than fifteen to one in each kindergarten and first grade class in all buildings with the highest concentration of need. This division does not require that the funds used in buildings with the highest concentration of need be spent solely to reduce the ratio of instructional personnel to students in kindergarten and first grade. A school district may spend the funds in those buildings in any manner permitted by division (F)(3) of this section, but may not spend the money in other buildings unless the fifteen-to-one ratio required by this division is attained.

(H)(1) By the first day of August of each fiscal year, each school district wishing to receive any funds under division (D) of this section shall submit to the department of education an estimate of its all-day kindergarten

ntage. Each district shall update its estimate throughout the fiscal year in the form and manner required by the department, and the department shall adjust payments under this section to reflect the updates.

(2) Annually by the end of December, the department of education, utilizing data from the information system established under section 3301.0714 of the Revised Code and after consultation with the legislative office of education oversight, shall determine for each school district subject to division (F) of this section whether in the preceding fiscal year the district's ratio of instructional personnel to students and its number of kindergarten students receiving all-day kindergarten appear reasonable, given the amounts of money the district received for that fiscal year pursuant to divisions (D) and (E) of this section. If the department is unable to verify from the data available that students are receiving reasonable amounts of instructional attention and all-day kindergarten, given the funds the district has received under this section and that class-size reduction funds are being used in school buildings with the highest concentration of need as required by division (G) of this section, the department shall conduct a more intensive investigation to ensure that funds have been expended as required by this section. The department shall file an annual report of its findings under this division with the chairpersons of the committees in each house of the general assembly dealing with finance and education.

(I) Any school district with a DPIA index less than one and a three-year average formula ADM exceeding seventeen thousand five hundred shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage. Such a district shall expend at least seventy per cent of the remaining funds received under this section, and any other district with a DPIA index less than one shall expend at least seventy per cent of all funds received under this section, for any of the following purposes:

(1) The purchase of technology for instructional purposes;

(2) All-day kindergarten;

(3) Reduction of class sizes;

(4) Summer school remediation;

(5) Dropout prevention programs;

(6) Guaranteeing that all third graders are ready to progress to more advanced work;

(7) Summer education and work programs;

(8) Adolescent pregnancy programs;

(9) Head start or preschool programs;

(10) Reading improvement programs described by the department of education;

(11) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(12) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;

(13) School breakfasts provided pursuant to section 3313.813 of the Revised Code.

Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.

(J) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

(K)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division (F)(3) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department.

Sec. 3317.06. Moneys paid to school districts under division (L) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or electronic textbooks as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or electronic textbooks to pupils attending nonpublic schools within the district or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or electronic textbooks shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As used in this section:

(1) "Textbook" means any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.

(2) "Electronic textbook" means computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, local and remote computer assisted instruction, on-line service, electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means.

(B) To provide speech and hearing diagnostic services to pupils attending nonpublic schools within the district. Such service shall be provided in the nonpublic school attended by the pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance and counseling services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are handicapped children as defined in division (A) of section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase any secular, neutral, and nonideological computer software (including site-licensing), prerecorded video laserdiscs, digital video on demand (DVD), compact discs, and video cassette cartridges, wide area connectivity and related technology as it relates to internet access, mathematics or science equipment and materials, instructional materials, and school library materials that are in general use in the public schools of the state and loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. Only such items that are incapable of diversion to religious use and that are susceptible of loan to individual pupils and are furnished for the use of individual pupils shall be purchased and loaned under this division. As used in this section, "instructional materials" means

prepared learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children, and may include educational resources and services developed by the Ohio schoolnet commission.

(L) To purchase instructional equipment, including computer hardware, for use by pupils attending nonpublic schools within the district, if such usage only occurs when these pupils are being provided the secular remedial, diagnostic, or therapeutic services pursuant to division (B), (D), (E), (F), (G), or (I) of this section.

(M) To purchase mobile units to be used for the provision of services pursuant to divisions (E), (F), (G), and (I) of this section and to pay for necessary repairs and operating costs associated with these units.

Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services.

Health services provided pursuant to divisions (B), (C), (D), and (E) of this section may be provided under contract with the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency.

Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division (L) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division (L) of section 3317.024 of the Revised Code.

No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district.

Materials, equipment, computer software, textbooks, electronic textbooks, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers.

No school district shall provide services for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools.

The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section may be transferred to the auxiliary services personnel unemployment compensation fund established pursuant to section 4141.47 of the Revised Code. The department shall also adopt guidelines and procedures limiting the purchase and loan of the items described in division (K) of this section to items that are in general use in the public schools of the state, that are incapable of diversion to religious use, and that are susceptible to individual use rather than classroom use. Within thirty days after the end of each biennium, each board of education shall remit to the department all moneys paid to it under division (L) of section 3317.024 of the Revised Code and any interest earned on those moneys that are not required to pay expenses incurred under this section during the biennium for which the money was appropriated and during which the interest was earned. If a board of education subsequently determines that the remittal of moneys leaves the board with insufficient money to pay all valid expenses incurred under this section during the biennium for which the remitted money was appropriated, the board may apply to the department of education for a refund of money, not to exceed the amount of the insufficiency. If the department determines the expenses were lawfully incurred and would have been lawful expenditures of the refunded money, it shall certify its determination and the

amount of the refund to be made to the ~~administrator~~ director of ~~the bureau of employment~~ jobs and family services who shall make a refund as provided in section 4141.47 of the Revised Code.

Sec. 3317.064. (A) There is hereby established in the state treasury the auxiliary services mobile unit replacement and repair fund. By the thirtieth day of January of each odd-numbered year, the ~~administrator~~ director of ~~the bureau of employment~~ job and family services and the superintendent of public instruction shall determine the amount of any excess moneys in the auxiliary services personnel unemployment compensation fund not reasonably necessary for the purposes of section 4141.47 of the Revised Code, and shall certify such amount to the director of budget and management for transfer to the auxiliary services mobile unit replacement and repair fund. If the ~~administrator~~ director of jobs and family services and the superintendent disagree on such amount, the director of budget and management shall determine the amount to be transferred.

(B) Moneys in the auxiliary services mobile unit replacement and repair fund shall be used for the relocation or for the replacement and repair of mobile units used to provide the services specified in division (E), (F), (G), or (I) of section 3317.06 of the Revised Code and for no other purposes. The state board of education shall adopt guidelines and procedures for replacement, repair, and relocation of mobile units and the procedures under which a school district may apply to receive moneys with which to repair or replace or relocate such units.

Sec. 3317.10. (A) On or before the first day of March of each year, the department of ~~human~~ job and family services shall certify to the state board of education the number of children ages five through seventeen residing in each school district and living in a family that participated in Ohio works first under Chapter 5107. of the Revised Code during the preceding October according to the school district of residence for each child. Except as provided under division (B) of this section, the number of children so certified in any year shall be used by the department of education in calculating the distribution of moneys for the ensuing fiscal year provided in section 3317.029 of the Revised Code.

(B) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number certified under division (A) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of children ages five through seventeen who reside in the district and live in a family that participates in Ohio works first. Within sixty days of receipt of a request for

information from the department of education, the department of ~~human~~ job and family services shall provide any information the department of education determines is necessary to make such adjustments. The department of education may use the adjusted number for any district for the applicable fiscal year, in lieu of the number certified for the district for that fiscal year under division (A) of this section, in the calculation of the distribution of moneys provided in section 3317.029 of the Revised Code.

Sec. 3319.089. The board of education of any city, local, or exempted village school district may adopt a resolution approving a contract with a county department of ~~human~~ job and family services under section 5107.541 of the Revised Code to provide for a participant of the work experience program who has a child enrolled in a public school in that district to fulfill the work requirements of the work experience program by volunteering or working in that public school in accordance with section 5107.541 of the Revised Code. Such recipients are not employees of such board of education.

Before a school district places a participant in a public school under this section, the appointing officer or hiring officer of the board of education of a school district shall request a criminal records check of the participant to be conducted in the same manner as required for a person responsible for the care, custody, or control of a child in accordance with section 3319.39 of the Revised Code, The records check shall be conducted even though the participant, if subsequently hired, would not be considered an employee of the school district for purposes of working at the school. A participant shall not be placed in a school if the participant previously has been convicted of or pleaded guilty to any of the offenses listed in division (B)(1)(a) or (b) of section 3319.39 of the Revised Code.

Sec. 3321.18. The attendance officer provided for by section 3321.14 or 3321.15 of the Revised Code shall institute proceedings against any officer, parent, guardian, or other person violating laws relating to compulsory education and the employment of minors, and otherwise discharge the duties described in sections 3321.14 to 3321.22 of the Revised Code, and perform such other service as the superintendent of schools or board of education of the district by which ~~he~~ the attendance officer is employed considers necessary to preserve the morals and secure the good conduct of school children, and to enforce such laws.

The attendance officer shall be furnished with copies of the enumeration in each school district in which ~~he~~ the attendance officer serves and of the lists of pupils enrolled in the schools and shall report to the superintendent discrepancies between these lists and the enumeration.

The attendance officer and assistants shall cooperate with the ~~bureau~~ director of ~~employment services~~ commerce in enforcing the laws relating to the employment of minors. The attendance officer shall furnish upon request such data as ~~he~~ the attendance officer and ~~his~~ the attendance officer's assistants have collected in their reports of children from six to eighteen years of age and also concerning employers to the ~~bureau~~ director and upon request to the state board of education. The attendance officer must keep a record of ~~his~~ the attendance officer's transactions for the inspection and information of the superintendent of schools and the board of education; and shall make reports to the superintendent of schools as often as required by ~~him~~ the superintendent. The state board of education may prescribe forms for the use of attendance officers in the performance of their duties. The blank forms and record books or indexes shall be furnished to the attendance officers by the boards of education by which they are employed.

Sec. 3323.021. As used in this section, "participating county MR/DD board" means a county board of mental retardation and developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code.

(A) When a school district, educational service center, or participating county MR/DD board enters into an agreement or contract with another school district, educational service center, or participating county MR/DD board to provide educational services to a disabled child during a school year, both of the following shall apply:

(1) Beginning with fiscal year 1999, if the provider of the services intends to increase the amount it charges for some or all of those services during the next school year or if the provider intends to cease offering all or part of those services during the next school year, the provider shall notify the entity for which the services are provided of these intended changes no later that the first day of March of the current fiscal year.

(2) Beginning with fiscal year 1999, if the entity for which services are provided intends to cease obtaining those services from the provider for the next school year or intends to change the type or amount of services it obtains from the provider for the next school year, the entity shall notify the service provider of these intended changes no later than the first day of March of the current fiscal year.

(B) School districts, educational service centers, participating county MR/DD boards, and other applicable governmental entities shall collaborate where possible to maximize federal sources of revenue, including the community alternative funding system of the medical assistance program

established under Chapter 5111. of the Revised Code, to provide additional funds for special education related services for disabled children. Annually, each school district shall report to the department of education any amounts of money the district received through such medical assistance program.

(C) The state board of education, the department of mental retardation and developmental disabilities, and the department of ~~human~~ job and family services shall develop working agreements for pursuing additional funds for services for disabled children.

Sec. 3331.04. Whenever an age and schooling certificate is applied for by a child over sixteen years of age who is unable to pass a test for the completion of the work of the seventh grade and who is not so below the normal in mental development that ~~he~~ the child cannot profit from further schooling, an age and schooling certificate may be issued by the superintendent of schools to such child upon proof acceptable to such superintendent of the following facts and upon agreement to the respective conditions made in writing by the child and by the parents, guardian, or custodian in charge of such child:

(A) That the child is addicted to no habit which is likely to detract from ~~his~~ the child's reliability or effectiveness as a worker, or proper use of ~~his~~ the child's earnings or leisure, or the probability of ~~his~~ the child's faithfully carrying out the conditions to which ~~he~~ the child agrees as specified in division (B) of this section, and in addition any one of the following groups of facts:

(1) That the child has been a resident of the school district for the last two years, has diligently attended upon instruction at school for the last two years, and is able to read, write, and perform the fundamental operations of arithmetic. These abilities shall be judged by the superintendent.

(2) That the child having been a resident of the school district less than two years, diligently attended upon instruction in school in the district in which the child was a resident next preceding ~~his~~ the child's residence in the present district for the last school year preceding ~~his~~ the child's removal to the present district, and has diligently attended upon instruction in the schools of the present district for the period that ~~he~~ the child has been a resident thereof;

(3) That the child has removed to the present school district since the beginning of the last annual school session, and that instruction adapted to ~~his~~ the child's needs is not provided in the regular day schools in the district;

(4) That the child is not sufficiently familiar with the English language to be properly instructed in the full-time day schools of the district;

(5) That conditions are such that the child must provide for ~~his~~ the

child's own support or that the child is needed for the support or care of parents or for the support or care of brothers or sisters for whom the parents are unable to provide and that the child is desirous of working for the support or care of ~~himself~~ self or of such parents or siblings and that such child cannot render such needed support or care by a reasonable effort outside of school hours; but no age and schooling certificate shall be granted to a child of this group upon proof of such facts without written consent given to the superintendent by the juvenile judge and by the department of ~~human~~ job and family services.

(B)(1) In case the certificate is granted under division (A)(1), (2), (3), or (5) of this section, that until reaching the age of eighteen years the child will diligently attend in addition to part-time classes, such evening classes as will add to ~~his~~ the child's education for literacy, citizenship, or vocational preparation which may be made available to ~~him~~ the child in the school district and which ~~he~~ the child may be directed to attend by the superintendent, or in case no such classes are available, that ~~he~~ the child will pursue such reading and study and report monthly thereon as may be directed by the superintendent;

(2) In case the certificate is granted under division (A)(4) of this section, that until the age of eighteen years the child will attend in addition to part-time classes, such evening classes as will assist ~~him~~ the child to learn the English language or advance in Americanization which may be made available to ~~him~~ the child in the school district and which ~~he~~ the child may be directed to attend by the superintendent.

Sec. 3335.24. The board of trustees of the Ohio state university and the department of ~~human~~ job and family services may enter into a co-operative agreement for the construction, operation, and maintenance of a ceramic experimental unit upon property belonging to the state at Roseville. The terms of any co-operative agreement entered into by the parties under this section shall be binding upon them until modified by their mutual consent.

Sec. 3354.21. The multipurpose center established under section 3354.20 of the Revised Code may provide and may enter into an agreement with a public or private nonprofit agency or person to provide displaced homemakers with services. These services may include, but not be limited to, the following:

(A) Job counseling, specifically designed for a person reentering the job market after a number of years as a homemaker, and utilizing peer counseling;

(B) Job training developed cooperatively with the ~~Ohio state employment service~~ director of job and family services, local government

agencies, and private employers, for available employment in the public and private sectors. The job training program shall provide a stipend for trainees. As opportunities for the employment of such skills in the community are identified or developed, the center's program shall include training for:

(1) Employment counselors in social service agencies;

(2) Home health technicians with skills in nutrition, basic health care, and nursing for the disabled and elderly;

(3) Health care counselors, for employment in hospital outpatient and community clinics, especially in the counseling of middle-aged patients.

(C) Assistance in finding employment. In its job-finding program, the staff shall work with the ~~Ohio bureau~~ director of ~~employment~~ job and family services, and any other appropriate public or private agency in the area where the center is located.

(D) Health service programs, including a clinic based on principles of preventive health care and consumer health education. The clinic shall provide basic physical and gynecological examinations, information and referral to physicians and clinics, discussion and activity groups on common health problems of older persons, and alcohol and drug addiction programs.

(E) Money management courses;

(F) Information concerning government assistance programs;

(G) Educational programs, including courses offering credit through community colleges or leading to a high school equivalency diploma;

(H) Counseling for the purpose of lessening or resolving emotional problems, temporary stress, or impaired social functioning.

Sec. 3501.01. As used in the sections of the Revised Code relating to elections and political communications:

(A) "General election" means the election held on the first Tuesday after the first Monday in each November.

(B) "Regular municipal election" means the election held on the first Tuesday after the first Monday in November in each odd-numbered year.

(C) "Regular state election" means the election held on the first Tuesday after the first Monday in November in each even-numbered year.

(D) "Special election" means any election other than those elections defined in other divisions of this section. A special election may be held only on the first Tuesday after the first Monday in February, May, August, or November, or on the day authorized by a particular municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in February or May, except as authorized by a municipal or county charter, but may be held on the first Tuesday after the first Monday in

March.

(E)(1) "Primary" or "primary election" means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. Primary elections shall be held on the first Tuesday after the first Monday in May of each year except in years in which a presidential primary election is held.

(2) "Presidential primary election" means a primary election as defined by division (E)(1) of this section at which an election is held for the purpose of choosing delegates and alternates to the national conventions of the major political parties pursuant to section 3513.12 of the Revised Code. Unless otherwise specified, presidential primary elections are included in references to primary elections. In years in which a presidential primary election is held, all primary elections shall be held on the first Tuesday after the first Monday in March except as otherwise authorized by a municipal or county charter.

(F) "Political party" means any group of voters meeting the requirements set forth in section 3517.01 of the Revised Code for the formation and existence of a political party.

(1) "Major political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received no less than twenty per cent of the total vote cast for such office at the most recent regular state election.

(2) "Intermediate political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received less than twenty per cent but not less than ten per cent of the total vote cast for such office at the most recent regular state election.

(3) "Minor political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received less than ten per cent but not less than five per cent of the total vote cast for such office at the most recent regular state election or which has filed with the secretary of state, subsequent to any election in which it received less than five per cent of such vote, a petition signed by qualified electors equal in number to at least one per cent of the total vote cast for such office in the last preceding regular state election, except that a newly formed political party shall be known as a minor political party until the time of the first election for governor or president which occurs not less than twelve months subsequent to the formation of such party, after which

election the status of such party shall be determined by the vote for the office of governor or president.

(G) "Dominant party in a precinct" or "dominant political party in a precinct" means that political party whose candidate for election to the office of governor at the most recent regular state election at which a governor was elected received more votes than any other person received for election to that office in such precinct at such election.

(H) "Candidate" means any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who claims to be a write-in candidate, or who knowingly assents to being represented as a write-in candidate by another at either a primary, general, or special election to be held in this state.

(I) "Independent candidate" means any candidate who claims not to be affiliated with a political party, and whose name has been certified on the office-type ballot at a general or special election through the filing of a statement of candidacy and nominating petition, as prescribed in section 3513.257 of the Revised Code.

(J) "Nonpartisan candidate" means any candidate whose name is required, pursuant to section 3505.04 of the Revised Code, to be listed on the nonpartisan ballot, including all candidates for judicial office, for member of any board of education, for municipal or township offices in which primary elections are not held for nominating candidates by political parties, and for offices of municipal corporations having charters that provide for separate ballots for elections for these offices.

(K) "Party candidate" means any candidate who claims to be a member of a political party, whose name has been certified on the office-type ballot at a general or special election through the filing of a declaration of candidacy and petition of candidate, and who has won the primary election of the candidate's party for the public office the candidate seeks or is selected by party committee in accordance with section 3513.31 of the Revised Code.

(L) "Officer of a political party" includes, but is not limited to, any member, elected or appointed, of a controlling committee, whether representing the territory of the state, a district therein, a county, township, a city, a ward, a precinct, or other territory, of a major, intermediate, or minor political party.

(M) "Question or issue" means any question or issue certified in accordance with the Revised Code for placement on an official ballot at a general or special election to be held in this state.

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be entitled to vote.

(O) "Voter" means an elector who votes at an election.

(P) "Voting residence" means that place of residence of an elector which shall determine the precinct in which the elector may vote.

(Q) "Precinct" means a district within a county established by the board of elections of such county within which all qualified electors having a voting residence therein may vote at the same polling place.

(R) "Polling place" means that place provided for each precinct at which the electors having a voting residence in such precinct may vote.

(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.

(T) "Political subdivision" means "county," "township," "city," "village," or "school district."

(U) "Election officer or official" means any of the following:

(1) Secretary of state;

(2) Employees of the secretary of state serving in the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;

(3) Director of a board of elections;

(4) Deputy director of a board of elections;

(5) Employees of a board of elections;

(6) Precinct polling place judges and clerks;

(7) Employees appointed by the boards of elections on a temporary or part-time basis.

(V) "Acknowledgment notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, informing a voter registration applicant or an applicant who wishes to change the applicant's residence or name of the status of the application; the information necessary to complete or update the application, if any; and if the application is complete, the precinct in which the applicant is to vote.

(W) "Confirmation notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, to a registered elector to confirm the registered elector's current address.

(X) "Designated agency" means an office or agency in the state that provides public assistance or that provides state-funded programs primarily engaged in providing services to persons with disabilities and that is required by the National Voter Registration Act of 1993 to implement a program designed and administered by the secretary of state for registering voters, or any other public or government office or agency that implements a

program designed and administered by the secretary of state for registering voters, including the department of ~~human~~ job and family services, the program administered under section 3701.132 of the Revised Code by the department of health, the department of mental health, the department of mental retardation and developmental disabilities, the rehabilitation services commission, and any other agency the secretary of state designates. "Designated agency" does not include public high schools and vocational schools, public libraries, or the office of a county treasurer.

(Y) "National Voter Registration Act of 1993" means the "National Voter Registration Act of 1993," 107 Stat. 77, 42 U.S.C.A. 1973gg.

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended.

Sec. 3599.45. (A) No candidate for the office of attorney general or county prosecutor or ~~his~~ such a candidate's campaign committee shall knowingly accept any contribution from a provider of services or goods under contract with the department of ~~human~~ job and family services pursuant to the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or from any person having an ownership interest in the provider.

As used in this section "candidate," "campaign committee," and "contribution" have the same meaning as in section 3517.01 of the Revised Code.

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the public health council pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the

department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or ~~his~~ the resident's family and without restriction as to the economic status of the resident or ~~his~~ the resident's family, diagnostic services necessary to determine whether ~~he~~ the resident suffers from a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or ~~his~~ the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the ~~deparment~~ DEPARTMENT may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses

for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished by hospitals to eligible recipients shall be in accordance with methods established by rules of the public health council. Until such rules are adopted, the department of health shall make payments to hospitals in accordance with reasonable cost principles for reimbursement under the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. Payments to providers for goods or services other than inpatient or outpatient hospital care shall be made in accordance with rules adopted by the public health council pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and ~~human~~ job and family services shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medical assistance program established under section 5111.01 of the Revised Code and to identify and recover duplicate payments.

(F)(1) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or ~~his~~ the child's parent or guardian shall disclose the identity of any third party against whom the child or ~~his~~ the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. Except as provided in division (F)(2) of this section, the department of health shall require a medically handicapped child who receives services from the program or ~~his~~ the child's parent or guardian to apply for all third-party benefits for which ~~he~~ the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent

that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or ~~his~~ the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits, except as provided in division (F)(2) of this section. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

(2) A medically handicapped child or ~~his~~ the parent or guardian of such a child is not required to apply for assistance under the medical assistance program established under section 5111.01 of the Revised Code as a condition for eligibility under the program for medically handicapped children if applying for or receiving assistance under the medical assistance program violates a religious belief of the child, parent, or guardian and a tenet of the child's, parent's, or guardian's religion.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who are suffering from cystic fibrosis and who meet the eligibility requirements established by the rules of the public health council pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ~~ombudsmen~~ ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically

handicapped children and eligibility for program services. The ~~ombudsmen~~ ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

Sec. 3701.241. (A) The director of health shall develop and administer the following:

(1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;

(2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;

(3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings;

(6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition;

(7) A program to assist communities, including communities of less than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds.

Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with division (C) of section 3701.243 of the Revised Code.

(B) The director shall:

(1) Approve a test or tests to be used to determine whether an individual

has HIV infection, define a confirmed positive test result, and develop guidelines for interpreting test results;

(2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test;

(3) Prepare a list of counseling services;

(4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it.

(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public.

The public health council shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B)(1) of this section and division (C) of section 3701.24 of the Revised Code.

(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In administering these funds, the director may enter into contracts with any person or entity for the purpose of administering the programs, including contracts with the department of ~~human~~ job and family services for establishment of a program of reimbursement of drugs used for treatment and care of such individuals. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code and issue orders as necessary for administration of the funds. If the department of ~~human~~ job and family services enters into a contract under this division, the director of ~~human~~ job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for carrying out the department's duties under the contract.

Sec. 3701.78. (A) There is hereby created the commission on minority health, consisting of eighteen members. The governor shall appoint to the commission nine members from among health researchers, health planners, and health professionals. The speaker of the house of representatives shall appoint to the commission two members of the house of representatives, not

more than one of whom is a member of the same political party, and the president of the senate shall appoint to the commission two members of the senate, not more than one of whom is a member of the same political party. The directors of health, mental health, mental retardation and developmental disabilities, and ~~human~~ job and family services, or their designees, and the superintendent of public instruction, or ~~his~~ the superintendent's designee, shall be members of the commission. The commission shall elect a ~~chairman~~ chairperson from among its members. Of the members appointed by the governor, five shall be appointed to initial terms of one year, and four shall be appointed to initial terms of two years. Thereafter, all members appointed by the governor shall be appointed to terms of two years. All members of the commission appointed by the speaker of the house of representatives or the president of the senate shall be nonvoting members of the commission and be appointed within thirty days after the commencement of the first regular session of each general assembly, and shall serve until the expiration of the session of the general assembly during which they were appointed. Members of the commission shall serve without compensation, but shall be reimbursed for the actual and necessary expenses they incur in the performance of their official duties.

(B) The commission shall promote health and the prevention of disease among members of minority groups. Each year the commission shall distribute grants from available funds to community-based health groups to be used to promote health and the prevention of disease among members of minority groups. As used in this division, "minority group" means any of the following economically disadvantaged groups: Blacks, American Indians, Hispanics, and Orientals. The commission shall adopt and maintain rules pursuant to Chapter 119. of the Revised Code to provide for the distribution of these grants. No group shall qualify to receive a grant from the commission unless it receives at least twenty per cent of its funds from sources other than grants distributed under this section.

(C) The commission may appoint such employees as it considers necessary to carry out its duties under this section. The department of health shall provide office space for the commission.

(D) The commission shall meet at the call of its ~~chairman~~ chairperson to conduct its official business. A majority of the voting members of the commission constitute a quorum. The votes of at least eight voting members of the commission are necessary for the commission to take any official action or to approve the distribution of grants under this section.

Sec. 3701.80. The department of health shall cooperate with the director of ~~human~~ job and family services when the director promulgates rules

pursuant to Chapter 5104. of the Revised Code governing the health and sanitary practices of meal preparation and service for type A family day-care homes, as defined in section 5104.01 of the Revised Code, recommend procedures for inspecting type A family day-care homes to determine whether they are in compliance with those rules, and provide training and technical assistance to the director on the procedures for determining compliance with those rules.

Sec. 3702.55. Except as provided in section 3702.542 of the Revised Code, a person that the director of health determines has violated section 3702.53 of the Revised Code shall cease conducting the activity that constitutes the violation or utilizing the equipment or facility resulting from the violation not later than thirty days after the person receives the notice mailed under section 3702.532 of the Revised ~~code~~ Code or, if the person appeals the director's determination under section 3702.60 of the Revised Code, thirty days after the person receives an order upholding the director's determination that is not subject to further appeal. A person that applies for a certificate of need as described in section 3702.542 of the Revised Code shall cease conducting the activity or using the equipment or facility in accordance with the timetable established by the director of health under that section.

If any person determined to have violated section 3702.53 of the Revised Code fails to cease conducting an activity or using equipment or a facility as required by this section or a timetable established under section 3702.542 of the Revised Code, or if the person continues to seek payment or reimbursement for services rendered or costs incurred in conducting the activity as prohibited by section 3702.56 of the Revised Code, in addition to the penalties imposed under section 3702.54, 3702.541, 3702.542, or 3702.543 of the Revised Code:

(A) The director of health may refuse to include any beds involved in the activity in the bed capacity of a hospital for purposes of registration under section 3701.07 of the Revised Code;

(B) The director of health may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a maternity boardinghouse or lying-in hospital under section 3711.02 of the Revised Code; a hospice care program under section 3712.04 of the Revised Code; a nursing home, rest home, or home for the aging under section 3721.02 of the Revised Code; or any beds within any of those facilities that are involved in the activity;

(C) A political subdivision certified under section 3721.09 of the Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, rest home, or home for the

aging, or any beds within any of those facilities that are involved in the activity;

(D) The director of mental health may refuse to license under section 5119.20 of the Revised Code, or may revoke a license or reduce bed capacity previously granted to, a hospital receiving mentally ill persons or beds within such a hospital that are involved in the activity;

(E) The department of ~~human~~ job and family services may refuse to enter into a provider agreement that includes a facility, beds, or services that result from the activity.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code, the director of health, and the Ohio board of regents may enter into a contract for the physician's participation in the physician loan repayment program. A lending institution may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per twenty thousand dollars of repayment agreed to under division ~~(b)~~(B)(3) of this section, whichever is greater;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services for a minimum of forty hours per week;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of ~~human~~ job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program;

(d) Meet the conditions established by the department of ~~human~~ job and family services for participation in the disability assistance medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability assistance.

(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan

taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the board the following as damages if the physician fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section;

(b) If the failure occurs after the first two years of the service obligation, three times the amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the Ohio board of regents of the physician's duty to pay the principal and interest of a government or other educational loan taken by the physician for expenses described in section 3702.75 of the Revised Code. If the board assumes the physician's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

Sec. 3705.07. (A) The local registrar of vital statistics shall number consecutively the birth, fetal death, and death certificates in three separate series, beginning with "number one" for the first birth, the first fetal death, and the first death registered in each calendar year. Such local registrar shall sign the local registrar's name in attest to the date of filing in the local office. The local registrar shall make a complete and accurate copy of each birth, fetal death, and death certificate registered. Each copy shall be filed and permanently preserved as the local record of such birth, fetal death, or death except as provided in sections 3705.09 and 3705.12 of the Revised Code. The local record may be a typewritten, photographic, electronic, or other reproduction. On or before the tenth day of each month, the local registrar shall transmit to the state office of vital statistics all original birth, fetal death, death, and military service certificates received, and all social security numbers obtained under section 3705.09, 3705.10, or 3705.16 of the Revised Code, during the preceding month. The local registrar shall immediately notify the health commissioner with jurisdiction in the registration district of the receipt of a death certificate attesting that death resulted from a communicable disease.

The office of vital statistics shall carefully examine the records and certificates received from local registrars of vital statistics and shall secure any further information that may be necessary to make each record and

certificate complete and satisfactory. It shall arrange and preserve the records and certificates, or reproductions of them produced pursuant to section 3705.03 of the Revised Code, in a systematic manner and shall maintain a permanent index of all births, fetal deaths, and deaths registered, which shall show the name of the child or deceased person, place and date of birth or death, number of the record or certificate, and the volume in which it is contained.

(B)(1) The office of vital statistics shall make available to the ~~bureau~~ division of child support in the department of ~~human~~ job and family services all social security numbers that were furnished to a local registrar of vital statistics under division (I) of section 3705.09 or under section 3705.10 or 3705.16 of the Revised Code and that were transmitted to the office under division (A) of this section.

(2) The office of vital statistics also shall make available to the ~~bureau~~ division of child support in the department of ~~human~~ job and family services any other information recorded in the birth record that may enable the ~~bureau~~ division to use the social security numbers provided under division (B)(1) of this section to obtain the location of the father of the child whose birth certificate was accompanied by the social security number or to otherwise enforce a child support order pertaining to that child or any other child.

Sec. 3705.09. (A) A birth certificate for each live birth in this state shall be filed in the registration district in which it occurs within ten days after such birth and shall be registered if it has been completed and filed in accordance with this section.

(B) When a birth occurs in or en route to an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate within ten days with the local registrar of vital statistics. The physician in attendance shall provide the medical information required by the certificate and certify to the facts of birth within seventy-two hours after the birth.

(C) When a birth occurs outside an institution, the birth certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth;

(2) Any other person in attendance at or immediately after the birth;

(3) The father;

(4) The mother;

(5) The person in charge of the premises where the birth occurred.

(D) Either of the parents of the child or other informant shall attest to the accuracy of the personal data entered on the birth certificate in time to permit the filing of the certificate within the ten days prescribed in this section.

(E) When a birth occurs in a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the record shall show the actual place of birth insofar as can be determined.

(F)(1) If the mother of a child was married at the time of either conception or birth or between conception and birth, the child shall be registered in the surname designated by the mother, and the name of the husband shall be entered on the certificate as the father of the child. The presumption of paternity shall be in accordance with section 3111.03 of the Revised Code.

(2) If the mother was not married at the time of conception or birth or between conception and birth, the child shall be registered by the surname designated by the mother. The name of the father of such child shall also be inserted on the birth certificate if both the mother and the father sign an acknowledgement of paternity affidavit before the birth record has been sent to the local registrar. If the father is not named on the birth certificate pursuant to division (F)(1) or (2) of this section, no other information about the father shall be entered on the record.

(G) When a man is presumed or found to be the father of a child, according to sections 3111.01 to 3111.19, former section 3111.21, or section 3111.22 of the Revised Code, or the father has acknowledged the child as his child in an acknowledgment of paternity, and the acknowledgment has become final pursuant to section 2151.232, 3111.211, or 5101.314 of the Revised Code, and documentary evidence of such fact is submitted to the department of health in such form as the director may require, a new birth record shall be issued by the department which shall have the same overall appearance as the record which would have been issued under this section if a marriage had occurred before the birth of such child. Where handwriting is required to effect such appearance, the department shall supply it. Upon the issuance of such new birth record, the original birth record shall cease to be a public record. Except as provided in division (C) of section 3705.091 of the Revised Code, the original record and any documentary evidence

supporting the new registration of birth shall be placed in an envelope which shall be sealed by the department and shall not be open to inspection or copy unless so ordered by a court of competent jurisdiction.

The department shall then promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred, and such local registrar shall file a copy of such new birth record along with and in the same manner as the other copies of birth records in such local registrar's possession. All copies of the original birth record in the possession of the local registrar or the probate court, as well as any and all index references to it, shall be destroyed. Such new birth record, as well as any certified or exact copy of it, when properly authenticated by a duly authorized person shall be prima-facie evidence in all courts and places of the facts stated in it.

(H) When a woman who is a legal resident of this state has given birth to a child in a foreign country that does not have a system of registration of vital statistics, a birth record may be filed in the office of vital statistics on evidence satisfactory to the director of health.

(I) Every birth certificate filed under this section on or after July 1, 1990, shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the ~~bureau~~ division of child support in the department of ~~human~~ job and family services, acting in accordance with regulations prescribed under the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate. The parents' social security numbers shall not be recorded on the certificate. The local registrar of vital statistics shall transmit the social security numbers to the state office of vital statistics in accordance with section 3705.07 of the Revised Code. No social security number obtained under this division shall be used for any purpose other than child support enforcement.

Sec. 3705.091. (A) If the natural mother and alleged father of a child sign an acknowledgment of paternity affidavit prepared pursuant to section 5101.324 of the Revised Code with respect to that child at the office of the local registrar, the local registrar shall provide a notary public to notarize the acknowledgment. The local registrar shall send a signed and notarized acknowledgment of paternity to the division of child support in the department of ~~human~~ job and family services pursuant to section 5101.314 of the Revised Code. The local registrar shall send the acknowledgment no later than ten days after it has been signed and notarized. If the local registrar knows a man is presumed under section 3111.03 of the Revised Code to be the father of the child, the local registrar shall not notarize or

send an acknowledgment with respect to the child pursuant to this section.

(B) The local registrar of vital statistics shall provide an acknowledgment of paternity affidavit described in division (A) of this section to any person that requests it.

(C) The department of health shall store all acknowledgments of paternity affidavits it receives pursuant to section 5101.314 of the Revised Code. The department of health shall send to the division any acknowledgment the department is storing that the division requests. The department of health shall adopt rules pursuant to Chapter 119. of the Revised Code to govern the method of storage of the acknowledgments and to implement this section.

(D) The department of health and the department of ~~human~~ job and family services shall enter into an agreement regarding expenses incurred by the department of health in comparing acknowledgment of paternity affidavits to birth records and storage of acknowledgment of paternity affidavits.

Sec. 3705.10. Any birth certificate submitted for filing eleven or more days after the birth occurred constitutes a delayed birth registration. A delayed birth certificate may be filed in accordance with rules which shall be adopted by the director of health. The rules shall include, but not be limited to, all of the following requirements for each delayed birth certificate filed on or after July 1, 1990:

(A) The certificate shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the ~~bureau~~ division of child support in the department of ~~human~~ job and family services, acting in accordance with regulations prescribed under the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate.

(B) The parents' social security numbers shall not be recorded on the certificate.

(C) The local registrar of vital statistics shall transmit the social security numbers to the state office of vital statistics in accordance with section 3705.07 of the Revised Code.

(D) No social security number obtained under this section shall be used for any purpose other than child support enforcement.

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may provide skilled nursing care as follows:

(1) Supervision of special diets;

(2) Application of dressings, in accordance with rules adopted under

section 3721.04 of the Revised Code;

(3) Providing for the administration of medication to residents, to the extent authorized under division (B)(1) of this section;

(4) Other skilled nursing care provided on a part-time, intermittent basis pursuant to division (C) of this section.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a

ident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(C) A residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of ~~human~~ job and family services for the medical assistance program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.022. (A) As used in this section:

(1) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Deficiency" and "survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) The department of health is hereby designated the state agency responsible for establishing and maintaining health standards and serving as the state survey agency for the purposes of Titles XVIII and XIX of the

"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The department shall carry out these functions in accordance with the regulations, guidelines, and procedures issued under Titles XVIII and XIX by the United States secretary of health and human services and with sections 5111.35 to 5111.62 of the Revised Code. The director of health shall enter into agreements with regard to these functions with the department of ~~human~~ job and family services and the United States department of health and human services. The director may also enter into agreements with the department of ~~human~~ job and family services under which the department of health is designated to perform functions under sections 5111.35 to 5111.62 of the Revised Code.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement the survey and certification requirements for skilled nursing facilities and nursing facilities established by the United States secretary of health and human services under Titles XVIII and XIX of the "Social Security Act," and the survey requirements established under sections 5111.35 to 5111.62 of the Revised Code. The rules shall include an informal process by which a facility may obtain a review of deficiencies that have been cited on a statement of deficiencies made by the department of health under section 5111.42 of the Revised Code. The review shall be conducted by an employee of the department who did not participate in and was not otherwise involved in any way with the survey. If the employee conducting the review determines that any deficiency citation is unjustified, that determination shall be reflected clearly in all records relating to the survey.

The director need not adopt as rules any of the regulations, guidelines, or procedures issued under Titles XVIII and XIX of the "Social Security Act" by the United States secretary of health and human services.

Sec. 3721.071. The buildings in which a home is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in the regulations of the board of building standards and the state fire marshal.

The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to

reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of industrial compliance in the department of commerce, and the department of health.

It is the express intent of the general assembly that the department of ~~human~~ job and family services shall terminate payments under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to those homes which do not comply with the requirements of this section for the submission of a written fire safety plan and the deadline for entering into contracts for the installation of systems.

Sec. 3721.08. (A) As used in this section, "real and present danger" means imminent danger of serious physical or life-threatening harm to one or more occupants of a home.

(B) The director of health may petition the court of common pleas of the county in which the home is located for an order enjoining any person from operating a home without a license. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a home without a license. The court shall have jurisdiction to grant such injunctive relief against the operation of a home without a license regardless of whether the home meets essential licensing requirements.

(C) Unless the department of ~~human~~ job and family services or contracting agency has taken action under section 5111.51 of the Revised Code to appoint a temporary manager or seek injunctive relief, if, in the judgment of the director of health, real and present danger exists at any

home, the director may petition the court of common pleas of the county in which the home is located for such injunctive relief as is necessary to close the home, transfer one or more occupants to other homes or other appropriate care settings, or otherwise eliminate the real and present danger. The court shall have the jurisdiction to grant such injunctive relief upon a showing that there is real and present danger.

(D)(1) If the director determines that real and present danger exists at a home and elects not to immediately seek injunctive relief under division (C) of this section, ~~he~~ the director may give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the real and present danger;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date on which the director intends to seek injunctive relief under division (C) of this section if ~~he~~ the director determines that real and present danger exists at the home.

(2) If the home notifies the director, within the time specified pursuant to division (D)(1)(c) of this section, that it believes the conditions giving rise to the real and present danger have been substantially corrected, the director shall conduct an inspection to determine whether real and present danger exists. If the director determines on the basis of the inspection that real and present danger exists, ~~he~~ the director may petition under division (C) of this section for injunctive relief.

(E)(1) If in the judgment of the director of health conditions exist at a home that will give rise to real and present danger if not corrected, the director shall give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the director's judgment;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date, which shall be no less than ten days after the notice is delivered, on which the director intends to seek injunctive relief under division (C) of this section if the conditions are not substantially corrected and ~~he~~ the director determines that a real and present danger exists.

(2) If the home notifies the director, within the period of time specified pursuant to division (E)(1)(c) of this section, that the conditions giving rise to the director's determination have been substantially corrected, the director shall conduct an inspection. If the director determines on the basis of the inspection that the conditions have not been corrected and a real and present

danger exists, ~~he~~ the director may petition under division (C) of this section for injunctive relief.

(F)(1) A court that grants injunctive relief under division (C) of this section may also appoint a special master who, subject to division (F)(2) of this section, shall have such powers and authority over the home and length of appointment as the court considers necessary. Subject to division (F)(2) of this section, the salary of a special master and any costs incurred by a special master shall be the obligation of the home.

(2) No special master shall enter into any employment contract on behalf of a home, or purchase with the home's funds any capital goods totaling more than ten thousand dollars, unless the special master has obtained approval for the contract or purchase from the home's operator or the court.

(G) If the director takes action under division (C), (D), or (E) of this section, ~~he~~ the director may also appoint employees of the department of health to conduct on-site monitoring of the home. Appointment of monitors is not subject to appeal under Chapter 119. or any other section of the Revised Code. No employee of a home for which monitors are appointed, no person employed by the home within the previous two years, and no person who currently has a consulting contract with the department or a home, shall be appointed under this division. Every monitor shall have the professional qualifications necessary to monitor correction of the conditions that give rise to or, in the director's judgment, will give rise to real and present danger. The number of monitors present at a home at any given time shall not exceed one for every fifty residents, or fraction thereof.

(H) On finding that the real and present danger for which injunctive relief was granted under division (C) of this section has been eliminated and that the home's operator has demonstrated the capacity to prevent the real and present danger from recurring, the court shall terminate its jurisdiction over the home and return control and management of the home to the operator. If the real and present danger cannot be eliminated practicably within a reasonable time following appointment of a special master, the court may order the special master to close the home and transfer all residents to other homes or other appropriate care settings.

(I) The director of health shall give notice of proposed action under divisions (D) and (E) of this section to both of the following:

(1) The home's administrator;

(2) If the home is operated by an organization described in subsection 501(c)(3) and tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, the board of

trustees of the organization; or, if the home is not operated by such an organization, the owner of the home.

Notices shall be delivered by certified mail or hand delivery. If notices are mailed, they shall be addressed to the persons specified in divisions (I)(1) and (2) of this section, as indicated in the department of health's records. If they are hand delivered, they shall be delivered to persons who would reasonably appear to the average prudent person to have authority to accept them.

(J) If ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section prior to the effective date of the assignment or transfer.

Sec. 3721.12. (A) The administrator of a home shall:

(1) With the advice of residents, their sponsors, or both, establish and review at least annually, written policies regarding the applicability and implementation of residents' rights under sections 3721.10 to 3721.17 of the Revised Code, the responsibilities of residents regarding the rights, and the home's grievance procedure established under division (A)(2) of this section. The administrator is responsible for the development of, and adherence to, procedures implementing the policies.

(2) Establish a grievance committee for review of complaints by residents. The grievance committee shall be comprised of the home's staff and residents, sponsors, or outside representatives in a ratio of not more than one staff member to every two residents, sponsors, or outside representatives.

(3) Furnish to each resident and sponsor prior to or at the time of admission, and to each member of the home's staff, at least one of each of the following:

(a) A copy of the rights established under sections 3721.10 to 3721.17 of the Revised Code;

(b) A written explanation of the provisions of section 3721.16 of the Revised Code;

(c) A copy of the home's policies and procedures established under this section;

(d) A copy of the home's rules;

(e) A copy of the addresses and telephone numbers of the board of health of the health district of the county in which the home is located, the county department of ~~human~~ job and family services of the county in which the home is located, the state departments of health and ~~human~~ job and family services, the state and local offices of the department of aging, and

any Ohio nursing home ~~ombudsman~~ ombudsperson program.

(B) Written acknowledgment of the receipt of copies of the materials listed in this section shall be made part of the resident's record and the staff member's personnel record.

(C) The administrator shall post all of the following prominently within the home:

(1) A copy of the rights of residents as listed in division (A) of section 3721.13 of the Revised Code;

(2) A copy of the home's rules and its policies and procedures regarding the rights and responsibilities of residents;

(3) A notice that a copy of this chapter, rules of the department of health applicable to the home, and federal regulations adopted under Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the materials required to be available in the home under section 3721.021 of the Revised Code, are available for inspection in the home at reasonable hours;

(4) A list of residents' rights advocates;

(5) A notice that the following are available in a place readily accessible to residents:

(a) If the home is licensed under section 3721.02 of the Revised Code, a copy of the most recent licensure inspection report prepared for the home under that section;

(b) If the home is a nursing facility as defined in section 5111.20 of the Revised Code, a copy of the most recent statement of deficiencies issued to the home under section 5111.42 of the Revised Code.

(D) The administrator of a home may, with the advice of residents, their sponsors, or both, establish written policies regarding the applicability and administration of any additional residents' rights beyond those set forth in sections 3721.10 to 3721.17 of the Revised Code, and the responsibilities of residents regarding the rights. Policies established under this division shall be reviewed, and procedures developed and adhered to as in division (A)(1) of this section.

Sec. 3721.14. To assist in the implementation of the rights granted in division (A) of section 3721.13 of the Revised Code, each home shall provide:

(A) Appropriate staff training to implement each resident's rights under division (A) of section 3721.13 of the Revised Code, including, but not limited to, explaining:

(1) The resident's rights and the staff's responsibility in the implementation of the rights;

(2) The staff's obligation to provide all residents who have similar needs with comparable service.

(B) Arrangements for a resident's needed ancillary services;

(C) Protected areas outside the home for residents to enjoy outdoor activity, within the capacity of the facility, consistent with applicable laws and rules;

(D) Adequate indoor space, which need not be dedicated to that purpose, for families of residents to meet privately with families of other residents;

(E) Access to the following persons to enter the home during reasonable hours, except where such access would interfere with resident care or the privacy of residents:

(1) Employees of the department of health, department of mental health, department of mental retardation and developmental disabilities, department of aging, ~~state~~ department of ~~human~~ job and family services, and county departments of ~~human~~ job and family services;

(2) Prospective residents and their sponsors;

(3) A resident's sponsors;

(4) Residents' rights advocates;

(5) A resident's attorney;

(6) A minister, priest, rabbi, or other person ministering to a resident's religious needs.

(F) In writing, a description of the home's grievance procedures.

Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section 5111.112 of the Revised Code.

(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a

rest-bearing account or petty cash fund.

(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medical assistance under Chapter 5111. of the Revised Code. The notice shall include an explanation of the potential effect on the resident's eligibility for medical assistance if the amount in the resident's accounts and the petty cash fund, plus the value of other nonexempt resources, exceeds the maximum assets a recipient of medical assistance may retain.

(D) Each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medical assistance program established under section 5111.01 of the Revised Code, to the director of ~~human~~ job and family services, to assure the security of all residents' funds managed by the home.

Sec. 3721.19. (A) As used in this section:

(1) "Home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code;

(2) "Sponsor" and "residents' rights advocate" have the same meanings as in section 3721.10 of the Revised Code.

A home licensed under this chapter that is not a party to a provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of ~~human~~ job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the medical assistance program unless it has, at least ninety days prior to such termination, provided written notice to the department of ~~human~~ job and

family services and residents of the home and their sponsors of such action. This requirement shall not apply in cases where the department of ~~human~~ job and family services terminates a home's provider agreement or provider status.

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain on file the individual's signed statement.

(C) A resident has a cause of action against a home for breach of any duty imposed by this section. The action may be commenced by the resident, or on ~~his~~ the resident's behalf by ~~his~~ the resident's sponsor or a residents' rights advocate, by the filing of a civil action in the court of common pleas of the county in which the home is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of any duty imposed by this section has occurred, the court shall enjoin the home from discharging the resident from the home until arrangements satisfactory to the court are made for the orderly transfer of the resident to another mode of health care including, but not limited to, another home, and may award the resident and a person or public agency that brings an action on behalf of a resident reasonable attorney's fees. If a home discharges a resident to whom or to whose sponsor information concerning its status relative to the medical assistance program was not provided as required under this section, the court shall grant any appropriate relief including, but not limited to, actual damages, reasonable attorney's fees, and costs.

Sec. 3721.51. The department of ~~human~~ job and family services shall:

(A) For the purpose of providing home and community-based services to elderly and disabled persons, determine an annual franchise permit fee on each nursing home in an amount equal to one dollar multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing

facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, on July 1, 1993, and, for each subsequent year, the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in fiscal year 1994 and, for each subsequent year, the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) For the purpose of providing home and community-based services to elderly and disabled persons, determine an annual franchise permit fee on each hospital in an amount equal to one dollar multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on July 1, 1993, and, for each subsequent year, the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in fiscal year 1994 and, for each subsequent year, the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

If the United States health care financing administration determines that the franchise permit fee established by sections 3721.50 through 3721.58 of the Revised Code would be an impermissible health care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, the department of ~~human~~ job and family services shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.511. (A) Not later than July 16, 1993, the ~~Department~~ department of ~~Human Services~~ job and family services shall apply for waivers by the United States health care financing administration of the broad-based tax requirement on health-care related taxes as permitted by 42 C.F.R. 433.72. If waivers are received, the following shall be exempt from the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code:

(1) The widow's home of Dayton, the Ohio masonic home of Springfield, and the holy family home of Parma;

(2) Subject to division (B) of this section, a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that meets all of the

following requirements:

(a) It is exempt from state taxation as a home for the aged under division (B) of section 5701.13 of the Revised Code;

(b) It is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended;

(c) It provides services for the life of each resident without regard to ~~his~~ the resident's ability to continue payments for services;

(d) It does not have a provider agreement with the department ~~of human services~~ as a nursing facility under Chapter 5111. of the Revised Code.

(B) The department may limit the number of nursing homes exempted under division (A)(2) of this section from the franchise permit fee to ensure that the fee is generally redistributive as required by 42 C.F.R. 433.68(e)(1). If the department limits exemptions under division (A)(2) of this section, the department shall do both of the following:

(1) First, exempt nursing homes that charge residents for services. In exempting nursing homes that charge residents for services, the department shall exempt as many such nursing homes as the department can and still receive an automatic approval of the waivers by the United States health care financing administration as provided by 42 C.F.R. 433.68(e)(1)(ii). In determining which nursing homes to exempt under division (B)(1) of this section, the department shall give priority to nursing homes that provide the greatest charitable subsidization per bed.

(2) Second, exempt nursing homes that do not charge residents for services. In exempting nursing homes that do not charge residents for services, the department shall exempt as many such nursing homes as the department can and still receive a review of the requests for waivers by the United States health care financing administration as provided by 42 C.F.R. 433.68(e)(1)(ii).

(C) If, after applying the exemptions under division (B) of this section, the department can exempt any more nursing homes that charge residents for services and still receive a review of the requests for waivers by the United States health care financing administration as provided by 42 C.F.R. 433.68(e)(1)(ii), the department may exempt as many more of such nursing homes as the department can. In determining which nursing homes to exempt under this division, the department shall give priority to nursing homes that provide the greatest charitable subsidization per bed.

(D) A nursing home shall provide the department with any information needed by the department to determine the nursing home's charitable subsidization per bed for the purposes of divisions (B)(1) and (C) of this

section.

(E) The ~~department~~ director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 3721.52. (A) For the purpose of the fee under division (A) of section 3721.51 of the Revised Code, the department of health shall, not later than August 1, 1993, and, for each subsequent year, not later than the first day of June, report to the department of ~~human~~ job and family services the number of beds in each nursing home licensed on July 1, 1993, and, for each subsequent year, the preceding first day of May under section 3721.02 or 3721.09 of the Revised Code or certified on that date under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) For the purpose of the fee under division (B) of section 3721.51 of the Revised Code, the department of health shall, not later than August 1, 1993, and, for each subsequent year, not later than the first day of June, report to the department of ~~human~~ job and family services the number of beds in each hospital registered on July 1, 1993, and, for each subsequent year, the preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

Sec. 3721.53. (A) Not later than the fifteenth day of August of each year, the department of ~~human~~ job and family services shall determine the annual franchise permit fee for each nursing home in accordance with division (A) of section 3721.51 of the Revised Code and the annual franchise permit fee for each hospital in accordance with division (B) of that section.

(B) Not later than the first day of September of each year, the department ~~of human services~~ shall mail to each nursing home and hospital notice of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) Each nursing home and hospital shall pay its fee under section 3721.51 of the Revised Code to the department ~~of human services~~ in quarterly installment payments not later than forty-five days after the last day of each September, December, March, and June.

(D) No nursing home or hospital shall directly bill its residents for the fee paid under this section, or otherwise directly pass the fee through to its residents.

Sec. 3721.54. If a nursing home or hospital fails to pay the full amount

of a franchise permit fee installment when due, the department of ~~human~~ job and family services may assess a five per cent penalty on the amount due for each month or fraction thereof the installment is overdue.

Sec. 3721.55. (A) A nursing home or hospital may appeal the fee imposed under section 3721.51 of the Revised Code solely on the grounds that the department of ~~human~~ job and family services committed a material error in determining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department of ~~human~~ job and family services shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the nursing home or hospital. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

Sec. 3721.56. All payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code shall be deposited into the "home and community-based services for the aged fund," which is hereby created in the state treasury. The departments of ~~human~~ job and family services and aging shall use the moneys in the fund to fund the following in accordance with rules adopted under section 3721.58 of the Revised Code:

(A) The medical assistance program established under Chapter 511. of the Revised Code;

(B) The PASSPORT program established under section 173.40 of the Revised Code;

(C) The residential state supplement program established under section 173.35 of the Revised Code.

Sec. 3721.57. The department of ~~human~~ job and family services may make any investigation it considers appropriate to obtain information necessary to fulfill its duties under sections 3721.50 to 3721.58 of the Revised Code. At the request of the department, the attorney general shall aid in any such investigations. The attorney general shall institute and prosecute all necessary actions for the enforcement of sections 3721.50 to

3721.58 of the Revised Code, except that at the request of the attorney general, the county prosecutor of the county in which a nursing home or hospital that has failed to comply with sections 3721.50 to 3721.58 of the Revised Code is located shall institute and prosecute any necessary action against the nursing home or hospital.

Sec. 3721.58. The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do both of the following:

(A) Prescribe the actions the department of job and family services will take to cease implementation of sections 3721.50 through 3721.57 of the Revised Code if the United States health care financing administration determines that the franchise permit fee established by those sections is an impermissible health-care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396(b)(w), as amended;

(B) Establish the method of distributing moneys in the home and community-based services for the aged fund created under section 3721.56 of the Revised Code;

(C) Establish any requirements or procedures ~~it~~ the director considers necessary to implement sections 3721.50 to 3721.58 of the Revised Code.

Sec. 3722.04. (A)(1) The director of health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section 3722.02 of the Revised Code and that the director determines to be in substantial compliance with the rules adopted by the public health council pursuant to this chapter. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing care to adults. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record indicates that the owner or manager is not suitable to own or manage an adult care facility.

The license shall contain the name and address of the facility for which it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

(2) Notwithstanding division (A)(1) of this section and sections 3722.02 and 3722.041 of the Revised Code, the director may issue a temporary license if the requirements of divisions (C), (D), and (F) of section 3722.02

of the Revised Code have been met. A temporary license shall be valid for a period of ninety days and, except as otherwise provided in division (A)(3) of section 3722.05 of the Revised Code, may be renewed, without payment of an additional application fee, for an additional ninety days.

(B) The director shall renew a license for a two-year period if the facility continues to be in compliance with the requirements of this chapter and in substantial compliance with the rules adopted under this chapter. The owner shall submit a nonrefundable license renewal application fee in an amount established in rules adopted by the public health council pursuant to this chapter. Before the license of an adult group home is renewed, if any alterations have been made to the buildings, a certificate of occupancy for the facility shall have been issued by the division of industrial compliance in the department of commerce or a local certified building department. The facility shall have water and sewage system approvals, if required by law, and, in the case of an adult group home, documentation of continued compliance with the rules adopted by the state fire marshal under division (F) of section 3737.83 of the Revised Code.

(C) The director shall make at least one unannounced inspection of an adult care facility during each licensure period in addition to inspecting the facility to determine whether a license should be issued or renewed, and may make additional unannounced inspections as the director considers necessary. Other inspections may be made at any time that the director considers appropriate. The director shall take all reasonable actions to avoid giving notice of an inspection by the manner in which the inspection is scheduled or performed. Not later than sixty days after the date of an inspection of a facility, the director shall send a report of the inspection to the ombudsperson in whose region the facility is located. The state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal shall inspect an adult group home seeking a license or renewal under this chapter as an adult care facility prior to issuance of a license or renewal, at least once annually thereafter, and at any other time at the request of the director, to determine compliance with the rules adopted under division (F) of section 3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements having to do with fire and safety requirements or building standards established by rule adopted by the public health council pursuant to this chapter upon written request of the facility. The director may grant a waiver if the director determines that the strict application of the licensing requirement would cause undue hardship to the facility and that granting the waiver would not

jeopardize the health or safety of any resident. The director may provide a facility with an informal hearing concerning the denial of a waiver request, but the facility shall not be entitled to a hearing under Chapter 119. of the Revised Code unless the director takes an action that requires a hearing to be held under section 3722.05 of the Revised Code.

(E) Not later than thirty days after the issuance or renewal of the license, other than a temporary license, of an adult care facility under this section, the owner shall submit an inspection fee of ten dollars for each bed for which the facility is licensed. The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period. All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.

(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section 3722.08 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities whose licenses have been revoked or not renewed, any facilities under an order suspending admissions pursuant to section 3722.07 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section 3722.08 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request. The director shall annually send a copy of the list to

the department of ~~human~~ job and family services, to the department of mental health, and to the department of aging.

Sec. 3722.15. (A) The following may enter an adult care facility at any time:

(1) Employees designated by the director of health;

(2) Employees designated by the director of aging;

(3) Employees designated by the attorney general;

(4) Employees designated by a county department of ~~human~~ job and family services to implement sections 5101.60 to 5101.71 of the Revised Code;

(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care facilities ombudsperson program;

(6) Employees of the department of mental health designated by the director of mental health;

(7) Employees of a mental health agency, if the agency has a client residing in the facility;

(8) Employees of a board of alcohol, drug addiction, and mental health services, when authorized by section 340.05 of the Revised Code or if an individual receiving mental health services provided by the board pursuant to division (A)(6)(b) of section 340.03 of the Revised Code or a mental health agency under contract with the board resides in the facility.

These employees shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to identify a specific resident of the facility, except as ordered by a court of competent jurisdiction.

(B) The following persons may enter any adult care facility during reasonable hours:

(1) A resident's sponsor;

(2) Residents' rights advocates;

(3) A resident's attorney;

(4) A minister, priest, rabbi, or other person ministering to a resident's religious needs;

(5) A physician or other person providing health care services to a resident;

(6) Employees authorized by county departments of ~~human~~ job and family services and local boards of health or health departments to enter adult care facilities;

(7) A prospective resident and prospective resident's sponsor.

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.

Sec. 3722.16. (A) No person shall:

(1) Operate an adult care facility unless the facility is validly licensed by the director of health under section 3722.04 of the Revised Code;

(2) Admit to an adult care facility more residents than the number authorized in the facility's license;

(3) Admit a resident to an adult care facility after the director has issued an order pursuant to section 3722.07 of the Revised Code suspending admissions to the facility. Violation of division (A)(3) of this section is cause for revocation of the facility's license.

(4) Interfere with any authorized inspection of an adult care facility conducted pursuant to section 3722.02 or 3722.04 of the Revised Code;

(5) Violate any of the provisions of this chapter or any of the rules adopted pursuant to it.

(B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following are the case:

(1) The care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period by one or more of the following:

(a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(b) A hospice care program licensed under Chapter 3712. of the Revised Code;

(c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility;

(d) A mental health agency or, pursuant to division (A)(6)(b) of section 340.03 of the Revised Code, a board of alcohol, drug addiction, and mental health services.

(2) The staff of the home health agency, hospice care program, nursing home, mental health agency, or board of alcohol, drug addiction, and mental health services does not train facility staff to provide the skilled nursing care;

(3) The individual to whom the skilled nursing care is provided is suffering from a short-term illness;

(4) If the skilled nursing care is to be provided by the nursing staff of a nursing home, all of the following are the case:

(a) The adult care facility evaluates the individual receiving the skilled

nursing care at least once every seven days to determine whether the individual should be transferred to a nursing home;

(b) The adult care facility meets at all times staffing requirements established by rules adopted under section 3722.10 of the Revised Code;

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code;

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code;

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code;

(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code;

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents;

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner.

Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home. No adult care facility shall provide skilled nursing care.

(C) A home health agency or hospice care program that provides skilled nursing care pursuant to division (B) of this section may not be associated with the adult care facility unless the facility is part of a home for the aged as defined in section 5701.13 of the Revised Code or the adult care facility is owned and operated by the same person and located on the same site as a nursing home licensed under Chapter 3721. of the Revised Code that is associated with the home health agency or hospice care program. In addition, the following requirements shall be met:

(1) The adult care facility shall evaluate the individual receiving the skilled nursing care not less than once every seven days to determine whether the individual should be transferred to a nursing home;

(2) If the costs of providing the skilled nursing care are included in a cost report filed pursuant to section 5111.26 of the Revised Code by the nursing home that is part of the same home for the aged, the home health

agency or hospice care program shall not seek reimbursement for the care under the medical assistance program established under Chapter 5111. of the Revised Code.

(D)(1) No person knowingly shall place or recommend placement of any person in an adult care facility that is operating without a license.

(2) No employee of a unit of local or state government, board of alcohol, drug addiction, and mental health services, mental health agency, or PASSPORT administrative agency shall place or recommend placement of any person in an adult care facility if the employee knows that the facility cannot meet the needs of the potential resident.

(3) No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of health.

(E) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules that define a short-term illness for purposes of division (B)(3) of this section and specify, consistent with rules pertaining to home health care adopted by the director of ~~human~~ job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section.

Sec. 3724.12. Employees of the departments of health and aging and persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care facilities ~~ombudsman~~ ombudsperson program may enter a community alternative home at any time.

Persons who may enter a community alternative home during reasonable hours are a resident's sponsor, residents' rights advocates, a resident's attorney, a physician or other person providing health care services to a resident, a prospective resident and ~~his~~ prospective resident's sponsor, employees of county departments of ~~human~~ job and family services, and a minister, priest, rabbi, or other person ministering to a resident's religious needs.

Sec. 3727.13. The department of health is authorized to obtain information for both of the following:

(A) Patients under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, from the department of ~~human~~ job and family services;

(B) Patients under Title XVIII of the Social Security Act from the United States department of health and human services.

At least thirty days prior to releasing the information described in

division (A) of this section to the department of health, the department reporting the information shall provide each hospital that has provided information to it with a copy of the information in a form that makes it possible for the hospital to review and verify the accuracy of the information. After receiving comments from a hospital, the department reporting the information shall correct any information the department agrees is in error.

The department may receive other data reported voluntarily by hospitals, other health care providers, third-party payers, or other entities.

Sec. 3727.17. Each hospital shall provide a staff person to do all of the following:

(A) Meet with each unmarried mother who gave birth in or en route to the hospital within twenty-four hours after the birth or before the mother is released from the hospital;

(B) Attempt to meet with the father of the unmarried mother's child if possible;

(C) Explain to the unmarried mother and the father, if the father is present, the benefit to the child of establishing a parent and child relationship between the father and the child and the various proper procedures for establishing a parent and child relationship;

(D) Present to the unmarried mother and, if possible, the father, the pamphlet or statement regarding the rights and responsibilities of a natural parent prepared by the department of ~~human~~ job and family services pursuant to section 5101.324 of the Revised Code;

(E) Provide the unmarried mother, and if possible the father, all forms and statements necessary to voluntarily establish a parent and child relationship, including the acknowledgment of paternity form prepared by the department of ~~human~~ job and family services pursuant to section 5101.324 of the Revised Code and required under section 5101.314 of the Revised Code;

(F) Upon both the mother's and father's request, help the mother and father complete any specific form or statement necessary to establish a parent and child relationship;

(G) Present to an unmarried mother who is not a recipient of medicaid or a participant in Ohio works first an application for Title IV-D services;

(H) Mail the voluntary acknowledgment of paternity, no later than ten days after it is completed, to the division of child support in the department of ~~human~~ job and family services.

Each hospital shall provide a notary public to notarize an acknowledgment of paternity signed by the mother and father. If a hospital

knows or determines that a man is presumed under section 3111.03 of the Revised Code to be the father of the child described in this section, the hospital shall take no further action with regard to an acknowledgment and shall not mail an acknowledgment with respect to the child pursuant to this section.

A hospital may contract with a person or government entity to fulfill its responsibilities under this section and section 2301.357 of the Revised Code. Services provided by a hospital under this section or pursuant to a contract under section 2301.357 of the Revised Code do not constitute the practice of law. A hospital shall not be subject to criminal or civil liability for any damage or injury alleged to result from services provided pursuant to this section or section 2301.357 of the Revised Code unless the hospital acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

Sec. 3729.02. The director of health, in consultation with the health data advisory committee, shall establish within the department of health the Ohio health care data center. The center shall do all of the following:

(A) Facilitate the coordination of health care policies among public agencies by improving the systems of collection and dissemination of health care data, except for price and price-related data, to providers, payers, consumers, and purchasers of health care;

(B) Conduct research regarding health care delivery and financing, health policy, and health care management, as requested by the general assembly, the governor, and other state agencies to assist in the development of health care legislation and policies that address the issues of access, quality, and escalating costs of health care in this state;

(C) Design a health care data management system that will not duplicate the resources of the public and private sectors;

(D) Collect, in accordance with this chapter, financial and nonfinancial health care data, other than price or price-related data, concerning health care access, quality, and costs. The departments of aging, ~~human~~ job and family services, insurance, mental health, and mental retardation and developmental disabilities, and the rehabilitation services commission shall cooperate with the center in providing data. The center, in consultation with public agencies, shall establish definitions of health care services, health care data elements common to all, health care data elements unique to each, and a mechanism for designing a health care data system that will provide meaningful information concerning health care access, quality, and cost in this state. The bureau of workers' compensation may, at its discretion, participate on terms agreeable between the bureau and the center.

(E) Establish data release policies to prevent the violation of confidentiality requirements relating to the dissemination of health care information;

(F) Cooperate with business coalitions and health service agencies to ensure that its health data management information system will provide meaningful information, other than price or price-related data, regarding health care access, quality, and cost to providers, payers, businesses, consumers, and state agencies;

(G) Cooperate, with state agencies involved in the delivery and financing of health care, in the development of a plan to define the roles and responsibilities of the center with all agencies in the establishment of an integrated health care data base and to consult with and make recommendations to the governor, the president of the senate, and the speaker of the house of representatives with respect to analyses and studies on health care costs, access, and quality;

(H) Work with public and private health data management organizations to maximize efficiency and avoid unnecessary effort in collection and dissemination of health information;

(I) Submit an annual report of its operations, programs, and activities to the speaker of the house of representatives, the president of the senate, the governor, other state agencies involved in the delivery of health care, and, upon request, the private sector.

Sec. 3729.11. Not later than a date specified by the director of health, the Ohio health care data center shall make its first submission of a report containing the medicare and medical assistance program information specified in this section to the governor, the speaker of the house of representatives, the president of the senate, the chairpersons of the standing committees of the house of representatives and the senate that have primary responsibility for the consideration of health or ~~human~~ family services legislation, and the joint legislative committee on health care oversight. Each year thereafter, the data center shall submit the report not later than the thirty-first day of December. The report shall include an analysis of the information collected under section 3729.43 of the Revised Code, if the center receives permission from the United States health care financing administration to collect the information, and an analysis of the information submitted to the center by the department of ~~human~~ job and family services under section 3729.26 of the Revised Code.

Sec. 3729.14. (A) Except as provided in division (B) of this section, no person or government entity shall fail to submit to the Ohio health care data center, in the form and manner and within the time limits prescribed by the

director of health, data, other than price or price-related data, required to be reported under sections 3729.15 to 3729.40 of the Revised Code. Any request involving quality data shall be in accordance with section 3729.36 of the Revised Code.

(B) The department of ~~human~~ job and family services shall be deemed to have complied with the data submission requirement of division (A) of this section by submitting to the center data in electronic format, including all of the following:

(1) All data elements from the paid claims history of the medical assistance program and the disability assistance medical assistance program;

(2) All related data elements from the recipient master, provider, procedure, drug, and diagnosis files of the medical assistance program and the disability assistance medical assistance program;

(3) Income-specific data in the extract files for the medical assistance program and the disability assistance medical assistance program contained in the client registry information system-enhanced file;

(4) The files known as "mapper" files containing the previous calendar year cost report data that have undergone a desk review in accordance with section 5111.27 of the Revised Code and the rate-setting data based on the previous calendar year;

(5) Minimum data set plus and individual assessment form files;

(6) Hospital cost report data files;

(7) Any other data components required by the center as determined in consultation with the health data advisory committee.

The department shall make its first submission of the data, except for the data required by divisions (B)(4) and (5) of this section, not later than a date specified by the director of health. Each year thereafter, the department shall submit the data not later than the fourteenth day of each January. The department shall submit the data required by divisions (B)(4) and (5) of this section not later than the first day of each September.

Sec. 3729.18. (A) The department of ~~human~~ job and family services is not required to use the system required by section 3729.15 or the forms listed in section 3729.16 of the Revised Code to reimburse nursing facilities and intermediate care facilities for the mentally retarded for care rendered to recipients of the medical assistance program. The department, however, shall provide the Ohio health care data center, in the form and manner prescribed by the director of health except as provided by division (B) of this section, with copies of all of the following:

(1) Each cost report for the previous calendar year submitted by each nursing facility and intermediate care facility for the mentally retarded;

(2) Each completed audit under section 5111.27 of the Revised Code;

(3) Each resident assessment instrument completed for each facility during the previous calendar year;

(4) A summary of facilities' claims for reimbursement for the previous quarter.

(B) The department shall make its first submission to the center of copies of the cost reports required by division (A)(1) of this section not later than a date specified by the director of health. Each year thereafter, the department shall submit the copies not later than the thirtieth day of November. Information on the cost reports that the department does not record in an electronic format may be provided to the center in a nonelectronic format.

The department shall provide the center with the summaries of reimbursement claims required by division (A)(4) of this section on a quarterly basis.

Sec. 3729.21. (A) As used in this section and in sections 3729.22 and 3729.23 of the Revised Code:

(1) "Nursing facility" and "intermediate care facility for the mentally retarded" have the same meanings as in section 5111.20 of the Revised Code.

(2) "Recipient" means a person who receives medical assistance under the medical assistance program.

(B) Not later than a date specified by the director of health, the Ohio health care data center shall make its first submission of a report to the joint legislative committee on health care oversight that provides all the information specified in divisions (C), (D), (E), (F), (G), and (H) of this section about the utilization of nursing facilities and intermediate care facilities for the mentally retarded during the previous calendar year. Each year thereafter, the data center shall submit a report not later than the first day of September. The report shall be in the form of six charts and shall include any needed explanations.

(1) If a chart must provide information for each age group, the director of health shall arrange the chart in a manner that provides the information for each of the following age groups:

(a) Under age twenty-two;

(b) Age twenty-two to sixty-four;

(c) Age sixty-five to eighty-five;

(d) Age eighty-six or over.

(2) If the chart must provide information for each category of service, the director shall arrange the chart in a manner that provides the information

for each of the following categories of service:

(a) Services in an intermediate care facility for the mentally retarded;

(b) Nursing facility services for persons older than age sixty-four who do not have mental illness or a disability not related to age;

(c) Nursing facility services for persons with mental illness;

(d) Nursing facility services for disabled persons whose disability is not related to advanced age;

(e) Nursing facility services for other persons.

(3) If a chart must provide information for each age group and category of service and the age groups listed in division (B)(1) of this section conflict with a category of service listed in division (B)(2) of this section, the director may develop a different list of age groups that matches the category of service.

(C) The first chart included in the report under division (B) of this section shall provide information that answers all of the following questions for each age group:

(1) How many recipients resided in a nursing facility or intermediate care facility for the mentally retarded?

(2) What was the total number of bed days for recipients in such facilities?

(3) What was the average number of bed days for recipients in such facilities?

(4) What was the total amount spent under the medical assistance program to reimburse such facilities for services to recipients?

(5) What was the average amount spent under the medical assistance program to reimburse such facilities for services to recipients?

(6) What was the average per diem rate the department of ~~human~~ job and family services reimbursed such facilities under the medical assistance program for services to recipients?

(7) What percentage of the total amount spent under the medical assistance program to reimburse such facilities for services to recipients was spent on each age group of recipients?

(D) The second chart included in the report under division (B) of this section shall provide information that answers all of the following questions for each age group and category of service:

(1) How many recipients resided in a nursing facility or intermediate care facility for the mentally retarded?

(2) What was the total number of bed days for recipients in such facilities?

(3) What was the average number of bed days for recipients in such

facilities?

(4) What was the total amount spent under the medical assistance program to reimburse such facilities for services to recipients?

(5) What was the average amount spent under the medical assistance program to reimburse such facilities for services to recipients?

(6) What was the average per diem rate the department of ~~human~~ job and family services reimbursed such facilities under the medical assistance program for services to recipients?

(7) What percentage of the total amount spent under the medical assistance program to reimburse such facilities for services to recipients was spent on each age group of recipients and category of service?

(E) The third chart included in the report under division (B) of this section shall provide information that answers all of the following questions for each age group:

(1) How many recipients resided in a nursing facility or intermediate care facility for the mentally retarded for the first time the previous calendar year?

(2) What was the total number of bed days for recipients who resided in such a facility for the first time the previous calendar year?

(3) What was the average number of bed days for recipients who resided in such a facility for the first time the previous calendar year?

(4) What was the total amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the first time the previous calendar year?

(5) What was the average amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the first time the previous calendar year?

(6) What was the average per diem rate the department of ~~human~~ job and family services reimbursed such facilities under the medical assistance program for services to recipients who resided in a facility for the first time the previous calendar year?

(7) What percentage of the total amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the first time the previous year was spent on each age group of recipients?

(F) The fourth chart included in the report under division (B) of this section shall provide information that answers all of the following questions for each age group and category of service:

(1) How many recipients resided in a nursing facility or intermediate care facility for the first time the previous calendar year?

(2) What was the total number of bed days for recipients who resided in such a facility for the first time the previous calendar year?

(3) What was the average number of bed days for recipients who resided in such a facility for the first time the previous calendar year?

(4) What was the total amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the first time the previous calendar year?

(5) What was the average amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the first time the previous calendar year?

(6) What was the average per diem rate the department of ~~human~~ job and family services reimbursed such facilities under the medical assistance program for services to recipients who resided in a facility for the first time the previous calendar year?

(7) What percentage of the total amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the first time the previous year was spent on each age group of recipients and category of service?

(G) The fifth chart included in the report under division (B) of this section shall provide information that answers all of the following questions for each age group:

(1) What was the average length of stay in a nursing facility or intermediate care facility for the mentally retarded?

(2) How many recipients resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?

(f) Three years to four years?

(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

(3) What percentage of all recipients resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?
(f) Three years to four years?
(g) Four years to five years?
(h) Five years to ten years?
(i) More than ten years?

(4) What was the total amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the following periods of time:

(a) Less than three months?
(b) Three months to one year?
(c) One year to two years?
(d) Two years to two and one-half years?
(e) Two and one-half years to three years?
(f) Three years to four years?
(g) Four years to five years?
(h) Five years to ten years?
(i) More than ten years?

(5) What was the average amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in a facility for the following periods of time:

(a) Less than three months?
(b) Three months to one year?
(c) One year to two years?
(d) Two years to two and one-half years?
(e) Two and one-half years to three years?
(f) Three years to four years?
(g) Four years to five years?
(h) Five years to ten years?
(i) More than ten years?

(6) What percentage of the total amount spent under the medical assistance program to reimburse such facilities for services to recipients was spent for recipients who resided in a facility for the following periods of time:

(a) Less than three months?
(b) Three months to one year?
(c) One year to two years?
(d) Two years to two and one-half years?
(e) Two and one-half years to three years?
(f) Three years to four years?
(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

(H) The sixth chart included in the report under division (B) of this section shall provide information that answers all of the following questions for each age group and category of service:

(1) What was the average length of stay in a nursing facility or intermediate care facility for the mentally retarded?

(2) How many recipients resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?

(f) Three years to four years?

(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

(3) What percentage of all recipients resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?

(f) Three years to four years?

(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

(4) What was the total amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?

(f) Three years to four years?

(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

(5) What was the average amount spent under the medical assistance program to reimburse such facilities for services to recipients who resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?

(f) Three years to four years?

(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

(6) What percentage of the total amount spent under the medical assistance program to reimburse such facilities for services to recipients was spent for recipients who resided in such a facility for the following periods of time:

(a) Less than three months?

(b) Three months to one year?

(c) One year to two years?

(d) Two years to two and one-half years?

(e) Two and one-half years to three years?

(f) Three years to four years?

(g) Four years to five years?

(h) Five years to ten years?

(i) More than ten years?

Sec. 3729.24. The departments of ~~human~~ job and family services, aging, mental health, and mental retardation and developmental disabilities, and any other state or local governmental entity requested by the director of health, shall report to the Ohio health care data center, in the form and manner prescribed by the director as determined in consultation with the health data advisory commission, any information requested by the director as necessary to complete the reports required by sections 3729.21 to 3729.23 of the Revised Code. No agency reporting information under this section shall require a health care provider to report information that is already reported to that agency or another state or local governmental agency. Any information necessary to satisfy the requirement of this section that is not already collected by the agency shall be collected by the center.

Sec. 3729.26. Not later than a date specified by the director of health, the department of ~~human~~ job and family services shall submit to the Ohio

health care data center its first report containing the medical assistance program information specified in this section. Each year thereafter, the department shall submit a report not later than this first day of April. The report shall contain all of the following information for the previous fiscal year about the medical assistance program:

(A) The total number of recipients and the number of the recipients who received medical services, each group categorized by age, sex, and race;

(B) The number of births, the outcomes of births, and the cost of the births;

(C) Any information specified by the director of health concerning medical assistance recipients with mental illness, mental retardation, a developmental disability, or alcohol or drug abuse problems;

(D) The number of claims processed, categorized by the type of health care provider;

(E) The number of medical providers who participated in the program;

(F) The average length of time recipients stayed in a hospital;

(G) The average number of times recipients visited a physician;

(H) The number of times recipients received emergency facility services and the number of times these services were primary care;

(I) The number of prescriptions issued to recipients;

(J) The twenty-five health problems of recipients diagnosed most frequently and the twenty-five medical procedures recipients underwent most frequently;

(K) The amount spent to reimburse each type of provider for services to recipients and the percentage of money spent to reimburse each type of provider, each compared to the two fiscal years preceding the fiscal year for which the report is prepared;

(L) The cost of administering the medical assistance program and the percentage of money spent for claim payment management, quality assurance, utilization review, and coordination of benefits, each compared to the two fiscal years preceding the fiscal year the report covers;

(M) The estimated cost under the program for administration and reimbursements to each type of provider for health services to recipients for the fiscal year commencing on the next July first;

(N) The quality assurance cost savings of primary care case managed programs under the program in comparison with other managed care programs;

(O) The number of visits under the early and periodic screening, diagnosis, and treatment program;

(P) A status report on all medical assistance demonstration programs;

(Q) Estimated savings due to compliance with federal requirements governing the utilization of prescriptions.

Sec. 3729.61. There is hereby created the health data advisory committee, consisting of the directors of administrative services, aging, alcohol and drug addiction services, budget and management, health, ~~human~~ job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and corrections, and youth services, the superintendent of insurance, and the administrator of workers' compensation. The committee also shall include the representatives of public health care programs who were serving on its technical advisory committee immediately prior to the effective date of this amendment. The members of the health data advisory committee shall fill any vacancy occurring among these representatives with another representative of a public health care program.

The committee shall advise the Ohio health care data center in the performance of its duties.

Not later than a date specified by the director of health, the health data advisory committee shall develop a plan to link the Ohio health care data center and all state agencies administering public health care programs into an electronic data collection and transfer system that complies with section 3729.15 of the Revised Code and is compatible with private sector data collection and health claims transaction systems. The plan shall include a report on the feasibility of including state agencies other than those administering public health care programs in the system. The plan shall recommend the form and manner for health care providers, third-party payers, and the agencies to submit data to the data center. The plan also shall recommend potential funding sources for the data center. The advisory committee shall submit a copy of the plan to the governor, president of the senate, and speaker of the house of representatives.

Sec. 3733.49. (A) There is hereby established ~~in~~ under the authority of the ~~bureau~~ director of ~~employment~~ job and family services the office of the migrant agricultural ~~ombudsman~~ ombudsperson. The ~~administrator of the bureau~~ director shall appoint the ~~ombudsman~~ ombudsperson. No person shall serve as ~~ombudsman~~ ombudsperson who has a fiduciary or pecuniary interest in an agricultural labor camp. The ~~ombudsman~~ ombudsperson shall have recognized ability and experience in migrant labor issues and shall speak both English and Spanish fluently. The ~~ombudsman~~ ombudsperson shall be a member of the classified civil service and shall be subject to an annual job evaluation by the ~~administrator~~ director. The ~~ombudsman's~~ ombudsperson's salary shall be established in a pay range fixed by the

~~administrator~~ director.

(B) The migrant agricultural ~~ombudsman~~ ombudsperson shall:

(1) Collect and compile available data, statistics, and information concerning migrant agricultural laborers and agricultural labor camps published by any agency of this state, any agency of the federal government, and private organizations, including, but not limited to, churches and Hispanic organizations. These data, statistics, and information are public records as defined in section 149.43 of the Revised Code.

(2) Coordinate the collection, analysis, and dissemination of information about the supply and quality of housing for migrant agricultural laborers in both licensed and unlicensed camps;

(3) ~~Familiarize himself~~ Become familiar with state and federal laws and rules concerning migrant agricultural laborers and agricultural labor camps and especially with state and federal programs for which migrant agricultural laborers might qualify;

(4) Establish a toll-free telephone number that:

(a) Camp owners and farmers who employ migrant agricultural laborers may use to seek clarification of laws and rules applicable to camps and for registering complaints; and

(b) Migrant agricultural laborers may use for the purpose of obtaining information described in divisions (B)(1) and (2) of this section and for registering complaints.

(5) Refer problems, complaints, or questions brought to ~~his~~ the ombudsperson's attention to the appropriate state or federal agency or the attorney general;

(6) Serve as an advocate for migrant agricultural laborers in social service matters;

(7) Submit an annual report to the president of the senate, the speaker of the house of representatives, and the members of the minority leadership of the senate and house of representatives on or before the thirtieth day of June of each year describing migrant agricultural labor conditions found by ~~his~~ the ombudsperson's office, along with an assessment of the effect of existing law on migrant agricultural labor and labor camps and any recommendations for change. The report shall contain a compilation of the kinds of complaints received and recommendations for any changes in the laws or rules that the ~~ombudsman~~ ombudsperson considers necessary or desirable.

(8) Develop and recommend to the general assembly definitions of "migrant agricultural laborer" and "migrant farmworker child" to be used consistently by all state agencies, including, but not limited to, boards,

partments, divisions, commissions, bureaus, societies, councils, and institutions; and

(9) Conduct a peak-period census of migrant agricultural laborers in this state, by county, so that the ~~ombudsman~~ ombudsperson can properly assess the need for housing for those laborers. The department of health shall assist the ~~ombudsman~~ ombudsperson by providing information on the peak occupancy of agricultural labor camps and other additional information obtained through inspections of agricultural labor camps.

Sec. 3737.22. (A) The fire marshal shall do all of the following:

(1) Adopt the state fire code under sections 3737.82 to 3737.86 of the Revised Code;

(2) Enforce the state fire code;

(3) Appoint assistant fire marshals who are authorized to enforce the state fire code;

(4) Conduct investigations into the cause, origin, and circumstances of fires and explosions, and prosecute persons believed to be guilty of arson or a similar crime;

(5) Compile statistics concerning loss due to fire and explosion as the fire marshal considers necessary, and consider the compatibility of the fire marshal's system of compilation with the systems of other state and federal agencies and fire marshals of other states;

(6) Engage in research on the cause and prevention of losses due to fire and explosion;

(7) Engage in public education and informational activities which will inform the public of fire safety information;

(8) Operate a fire training academy and arson crime laboratory;

(9) Conduct such other fire safety and fire fighting training activities for the public and groups as will further the cause of fire safety;

(10) Issue permits, licenses, and certificates as authorized by the Revised Code;

(11) Conduct tests of fire protection systems and devices, and fire fighting equipment to determine compliance with the state fire code, unless a building is insured against the hazard of fire, in which case such tests may be performed by the company insuring the building;

(12) Establish and collect fees for permits, licenses, and certificates;

(13) Make available for the prosecuting attorney and an assistant prosecuting attorney from each county of this state, in accordance with section 3737.331 of the Revised Code, a seminar program, attendance at which is optional, that is designed to provide current information, data, training, and techniques relative to the prosecution of arson cases;

(14) Administer and enforce Chapter 3743. of the Revised Code;

(15) Develop a form for the written report required to be filed under division (E)(4) of section 2921.22 of the Revised Code, and accept such reports when they are filed.

(B) The fire marshal shall appoint a chief deputy, and shall employ professional and clerical assistance as the fire marshal considers necessary. The chief deputy shall be a competent former or current member of a fire agency and possess five years of recent, progressively more responsible experience in fire inspection and fire code management. All employees, other than the fire marshal, the chief deputy, the superintendent of the Ohio fire academy, the grants administrator, the fiscal officer, the executive secretary to the state fire marshal, and the chiefs of the bureau of fire prevention, the arson bureau, the arson crime laboratory, and the bureau of underground storage tanks, shall be in the classified civil service. The fire marshal shall authorize the chief deputy and other employees under the fire marshal's supervision to exercise powers granted to the fire marshal by law as may be necessary to carry out the duties of the fire marshal's office.

(C) The fire marshal shall create, in and as a part of the office of fire marshal, an arson bureau consisting of a chief of the bureau, and such additional assistant fire marshals as the fire marshal determines necessary for the efficient administration of the bureau. The chief shall be experienced in the investigation of the cause, origin, and circumstances of fires, and in administration, including the supervision of subordinates. The chief, among other duties delegated to the chief by the fire marshal, shall be responsible, under the direction of the fire marshal, for the investigation of the cause, origin, and circumstances of each fire, and for the prosecution of persons believed to be guilty of arson or a similar crime.

(D) At the fire marshal's discretion, the fire marshal, or the chief deputy under the direction of the fire marshal, may cause the inspection to be conducted of all buildings, structures, and other places, the condition of which may be dangerous from a fire safety standpoint to life or property, or to property adjacent thereto.

(E) The fire marshal shall create, as a part of the office of fire marshal, a bureau of fire prevention consisting of a chief of the bureau, and such additional assistant fire marshals as the fire marshal determines necessary for the efficient administration of the bureau. The chief shall be qualified, by education or experience, to promote programs for rural and urban fire prevention and protection. The chief, among other duties delegated to the chief by the fire marshal, is responsible, under the direction of the fire marshal, for the promotion of rural and urban fire prevention and protection

through public information and education programs.

(F) The fire marshal shall cooperate with the director of ~~human~~ job and family services when the director promulgates rules pursuant to section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B family day-care homes, as defined in section 5104.01 of the Revised Code, recommend procedures for inspecting type B homes to determine whether they are in compliance with those rules, and provide training and technical assistance to the director and county directors of ~~human~~ job and family services on the procedures for determining compliance with those rules.

(G) The fire marshal, upon request of a provider of child day-care in a type B home that is not certified by the county director of ~~human~~ job and family services, as a precondition of approval by the state board of education pursuant to section 3313.813 of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, shall inspect the type B home to determine compliance with rules promulgated pursuant to section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B homes. In municipal corporations and in townships where there is a certified fire safety inspector, the inspections shall be made by that inspector under the supervision of the fire marshal, according to rules promulgated pursuant to section 5104.052 of the Revised Code. In townships outside municipal corporations where there is no certified fire safety inspector, inspections shall be made by the fire marshal.

Sec. 3737.65. (A) No person shall sell, offer for sale, or use any fire protection or fire fighting equipment that does not meet the minimum standards established by the fire marshal in the state fire code.

(B) Except for public and private mobile fire trucks, no person shall service, test, repair, or install for profit any fire protection or fire fighting equipment without a certificate or a provisional certificate issued by the fire marshal.

(C) The fire marshal shall not issue a provisional certificate pursuant to division (B) of this section to any individual who is not enrolled in a bona fide apprenticeship training program registered with the apprenticeship council pursuant to section ~~4111.29~~ 4139.05 of the Revised Code or with the bureau of apprenticeship and training of the United States department of labor. A provisional certificate issued pursuant to this section authorizes an individual to engage in the activities permitted under division (B) of this section only if the individual:

(1) Remains enrolled in such an apprenticeship training program; and

(2) Is directly supervised by an individual who possesses a valid and current certificate issued pursuant to division (B) of this section for the activities in which the individual issued the provisional certificate is engaged and the certified individual directly supervising the individual issued the provisional certificate only supervises one provisional certificate holder.

Sec. 3750.02. (A) There is hereby created the emergency response commission consisting of the directors of environmental protection and health, the chairpersons of the public utilities commission, industrial commission, and state and local government commission, the fire marshal, the director of public safety, the ~~administrator~~ director of ~~the bureau of employment~~ job and family services, and the attorney general as members ex officio, or their designees; notwithstanding section 101.26 of the Revised Code, the chairpersons of the respective standing committees of the senate and house of representatives that are primarily responsible for considering environmental issues who may participate fully in all the commission's deliberations and activities, except that they shall serve as nonvoting members; and ten members to be appointed by the governor with the advice and consent of the senate. The appointed members, to the extent practicable, shall have technical expertise in the field of emergency response. Of the appointed members, two shall represent environmental advocacy organizations, one shall represent the interests of petroleum refiners or marketers or chemical manufacturers, one shall represent the interests of another industry subject to this chapter, one shall represent the interests of municipal corporations, one shall represent the interests of counties, one shall represent the interests of chiefs of fire departments, one shall represent the interests of professional firefighters, one shall represent the interests of volunteer firefighters, and one shall represent the interests of local emergency management agencies.

An appointed member of the commission also may serve as a member of the local emergency planning committee of an emergency planning district. An appointed member of the commission who is also a member of a local emergency planning committee shall not participate as a member of the commission in the appointment of members of the local emergency planning committee of which the member is a member, in the review of the chemical emergency response and preparedness plan submitted by the local emergency planning committee of which the member is a member, in any vote to approve a grant to the member's district, or in any vote of the commission on any motion or resolution pertaining specifically to the

member's district or the local emergency planning committee on which the member serves. A commission member who is also a member of a local emergency planning committee shall not lobby or otherwise act as an advocate for the member's district to other members of the commission to obtain from the commission anything of value for the member's district or the local emergency planning committee of which the member is a member. A member of the commission who is also a member of a local emergency planning committee may vote on resolutions of the commission that apply uniformly to all local emergency planning committees and districts in the state and do not provide a grant or other pecuniary benefit to the member's district or the committee of which the member is a member.

The governor shall make the initial appointments to the commission within thirty days after December 14, 1988. Of the initial appointments to the commission, five shall be for a term of two years and five shall be for a term of one year. Thereafter, terms of office of the appointed members of the commission shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The commission may at any time by a vote of two-thirds of all the members remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance. Members of the commission shall serve without compensation, but shall be reimbursed for the reasonable expenses incurred by them in the discharge of their duties as members of the commission.

The commission shall meet at least annually and shall hold such additional meetings as are necessary to implement and administer this chapter. Additional meetings may be held at the behest of either a co-chairperson or a majority of the members. The commission shall, by adoption of internal management rules under division (B)(9) of this section, establish an executive committee and delegate to it the performance of such of the commission's duties and powers under this chapter as are required or authorized to be so delegated by that division. The commission may organize itself into such additional committees as it considers necessary or

convenient to implement and administer this chapter. The director of environmental protection and the director of public safety or their designees shall serve as co-chairpersons of the commission and the executive committee. Except as otherwise provided in this chapter, a majority of the voting members of the commission constitutes a quorum and the affirmative vote of a majority of the voting members of the commission is necessary for any action taken by the commission. Meetings of the executive committee conducted for the purpose of determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce this chapter or rules adopted or orders issued under it are not subject to section 121.22 of the Revised Code pursuant to division (D) of that section.

Except for the purposes of Chapters 102. and 2921. and sections 9.86 and 109.36 to 109.366 of the Revised Code, serving as an appointed member of the commission does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(B) The commission shall:

(1) Adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with and equivalent in scope, content, and coverage to the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and applicable regulations adopted under it:

(a) Identifying or listing extremely hazardous substances and establishing a threshold planning quantity for each such substance. To the extent consistent with that act and applicable regulations adopted under it, the rules may establish threshold planning quantities based upon classes of those substances or categories of facilities at which such substances are present.

(b) Listing hazardous chemicals, establishing threshold quantities for those chemicals, establishing categories of health and physical hazards of those chemicals, establishing criteria or procedures for identifying those chemicals and the appropriate hazard categories of those chemicals, and establishing ranges of quantities for those chemicals to be used in preparing emergency and hazardous chemical inventory forms under section 3750.08 of the Revised Code. To the extent consistent with that act and applicable regulations adopted under it, the rules may establish threshold quantities based upon classes of those chemicals or categories of facilities where those chemicals are present.

To the extent consistent with that act, the threshold quantities for

purposes of the submission of lists of hazardous chemicals under section 3750.07 and the submission of emergency and hazardous chemical inventory forms under section 3750.08 of the Revised Code may differ.

(c) Identifying or listing hazardous substances and establishing reportable quantities of each of those substances and each extremely hazardous substance. In addition to being consistent with and equivalent in scope, content, and coverage to that act and applicable regulations adopted under it, the rules shall be consistent with and equivalent in scope, content, and coverage to regulations identifying or listing hazardous substances and reportable quantities of those substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended.

(d) Prescribing the information to be included in the lists of hazardous chemicals required to be submitted under section 3750.07 of the Revised Code;

(e) Prescribing the information to be included in the emergency and hazardous chemical inventory forms required to be submitted under section 3750.08 of the Revised Code. If the commission establishes its own emergency and hazardous chemical inventory form, the rules shall authorize owners and operators of facilities who also have one or more facilities located outside the state for which they are required to submit inventory forms under the federal act and regulations adopted under it to submit their annual inventories on forms prescribed by the administrator of the United States environmental protection agency under that act instead of on forms prescribed by the commission and shall require those owners or operators to submit any additional information required by the commission's inventory form on an attachment to the federal form.

(f) Establishing procedures for giving verbal notice of releases under section 3750.06 of the Revised Code and prescribing the information to be provided in such a notice and in the follow-up written notice required by that section;

(g) Establishing standards for determining valid needs for the release of tier II information under division (B)(4) of section 3750.10 of the Revised Code;

(h) Identifying the types or categories of information submitted or obtained under this chapter and rules adopted under it that constitute confidential business information;

(i) Establishing criteria and procedures to protect trade secret and confidential business information from unauthorized disclosure;

(j) Establishing other requirements or authorizations that the

commission considers necessary or appropriate to implement, administer, and enforce this chapter.

(2) Adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this chapter that may be more stringent than the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. Rules adopted under division (B)(2) of this section shall not be inconsistent with that act or the regulations adopted under it. The rules shall:

(a) Prescribe the information to be included in the chemical emergency response and preparedness plans prepared and submitted by local emergency planning committees under section 3750.04 of the Revised Code;

(b) Establish criteria and procedures for reviewing the chemical emergency response and preparedness plans of local emergency planning committees required by section 3750.04 of the Revised Code and the annual exercise of those plans and for providing concurrence or requesting modifications in the plans and the exercise of those plans. The criteria shall include, without limitation, the requirement that each exercise of a committee's plan involve, in addition to local emergency response and medical personnel, either a facility that is subject to the plan or a transporter of materials that are identified or listed as hazardous materials by regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

(c) Establish policies and procedures for maintaining information submitted to the commission and local emergency planning committees under this chapter, and for receiving and fulfilling requests from the public for access to review and to obtain copies of that information. The criteria and procedures shall include the following requirements and authorizations regarding that information and access to it:

(i) Information that is protected as trade secret information or confidential business information under this chapter and rules adopted under it shall be kept in files that are separate from those containing information that is not so protected.

(ii) The original copies of information submitted to the commission or committee shall not be removed from the custody and control of the commission or committee.

(iii) A person who, either in person or by mail, requests to obtain a copy of a material safety data sheet submitted under this chapter by a facility owner or operator shall submit a separate application for each facility for which a material safety data sheet is being requested.

(iv) A person who requests to receive by mail a copy of information

submitted under this chapter by a facility owner or operator shall submit a separate application for each facility for which information is being requested and shall specify both the facility for which information is being requested and the particular types of documents requested.

(v) Only employees of the commission or committee shall copy information in the files of the commission or committee.

(vi) The commission or committee may require any person who requests to review or obtain a copy of information in its files to schedule an appointment for that purpose with the information coordinator of the commission or committee at least twenty-four hours before arriving at the office of the commission or committee for the review or copy.

(vii) Any person who seeks access to information in the files of the commission or a local emergency planning committee shall submit a written application, either in person or by mail, to the information coordinator on a form provided by the commission or committee. The person also shall provide the person's name and current mailing address on the application and may be requested by the commission or committee to provide basic demographic information on the form to assist in the evaluation of the information access provisions of this chapter and rules adopted under it. Application forms may be obtained by mail or in person or by request by telephone at the office of the commission or committee during regular business hours. Upon receipt of a request for an application by telephone or mail, the information coordinator shall promptly mail an application to the person who requested it.

(viii) The application form shall provide the applicant with a means of indicating that the applicant's name and address are to be kept confidential. If the applicant so indicates, that information is not a public record under section 149.43 of the Revised Code and shall not be disclosed to any person who is not a member or employee of the commission or committee or an employee of the environmental protection agency. When a name and address are to be kept confidential, they also shall be deleted from the copy of the application required to be placed in the file of the facility under division (B)(2)(c)(xii) of this section and shall be withheld from any log of information requests kept by the commission or committee pursuant to that division.

(ix) Neither the commission nor a local emergency planning committee shall charge any fee for access to review information in its files when no copies or computer searches of that information are requested.

(x) An applicant shall be informed of the cost of copying, mailing, or conducting a computer search of information on file with the commission or

committee before such a copy or search is made, and the commission or committee shall collect the appropriate fees as established under section 3750.13 of the Revised Code. Each applicant shall acknowledge on the application form that the applicant is aware that the applicant will be charged for copies and computer searches of that information the applicant requests and for the costs of mailing copies of the information to the applicant.

(xi) The commission or committee may require a person requesting copies of information on file with it to take delivery of them in the office of the commission or committee whenever it considers the volume of the information to be large enough to make mailing or delivery by a parcel or package delivery service impractical.

(xii) When the commission or committee receives a request for access to review or obtain copies of information in its files, it shall not routinely notify the owner or operator of the facility involved, but instead shall either keep a log or file of requests for the information or shall place a copy of each completed application form in the file for the facility to which the application pertains. Such a log or file shall be available for review by the public and by the owners and operators of facilities required to submit information to the commission or committee under this chapter and rules adopted under it.

(d) Require that claims for the protection, as a trade secret, of information obtained under this chapter regarding extremely hazardous substances identified or listed in rules adopted under division (B)(1)(a) of this section and hazardous chemicals identified or listed in rules adopted under division (B)(1)(b) of this section be submitted to the administrator of the United States environmental protection agency for determination under section 322 of the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations adopted under that section;

(e) Establish criteria and procedures for the issuance of variances under divisions (B) and (C) of section 3750.11 of the Revised Code. The rules shall require that, before approval of an application for a variance, the commission or committee find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that the extremely hazardous substances, hazardous chemicals, or hazardous substances that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency management personnel responding to a release of the chemicals or

substances, when the substances or chemicals are present at a facility in an amount equal to or exceeding the quantity for which reporting would be required under the reporting requirement for which the variance is sought. The rules shall also require that before approval of an application for a variance, the commission or committee find by a preponderance of the evidence that the development and implementation of a local emergency response plan for releases of the substances or chemicals covered by the reporting requirement will reduce the risk of catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency management personnel, in the event of a release of the substances or chemicals and find by a preponderance of the evidence that the reporting requirement is necessary for the development of such a local emergency response plan. The rules shall require that when determining whether the substances or chemicals that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency management personnel responding to a release of the substance or chemical, the commission or committee consider all of the following factors:

(i) The specific characteristics and degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances;

(ii) The proximity of the facilities that would be subject to the reporting requirement to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;

(iii) The quantities of the extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at facilities that would be subject to the reporting requirement;

(iv) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facilities that would be subject to the reporting requirement in quantities for which reporting would be required thereunder.

(f) Establish criteria and procedures for the issuance of orders under division (D) of section 3750.11 of the Revised Code requiring the placement of emergency response lock box units. The rules shall require that before approval of an application for issuance of such an order, the commission or committee find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that the presence of the extremely hazardous substances, hazardous chemicals, or hazardous

substances in the quantities in which they are routinely or intermittently present at the facility for which the order is sought pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of those substances or chemicals from the facility. The rules shall require that before approval of an application for issuance of such an order, the commission or committee also find by a preponderance of the evidence that the placement of an emergency response lock box unit at the facility is necessary to protect against the substantial risk of catastrophic injury to public health or safety or the environment, or to protect against an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of the extremely hazardous substances, hazardous chemicals, or hazardous substances routinely or intermittently present at the facility. The rules shall require that when determining whether the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of those substances or chemicals from the facility, the commission or committee consider all of the following factors:

(i) The specific characteristics and the degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility;

(ii) The proximity of the facility to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;

(iii) The quantities of the extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at the facility;

(iv) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facility.

(g) Establish procedures to be followed by the commission and the executive committee of the commission for the issuance of orders under this chapter.

(3) In accordance with Chapter 119. of the Revised Code adopt rules establishing reportable quantities for releases of oil that are consistent with and equivalent in scope, content, and coverage to section 311 of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 862, 33 U.S.C.A. 1321, as amended, and applicable regulations adopted under it;

(4) Adopt rules in accordance with Chapter 119. of the Revised Code

establishing criteria and procedures for identifying or listing extremely hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(a) of this section and for establishing threshold planning quantities and reportable quantities for the added extremely hazardous substances; for identifying or listing hazardous chemicals in addition to those identified or listed in rules adopted under division (B)(1)(b) of this section and for establishing threshold quantities and categories of health and physical hazards for the added hazardous chemicals; and for identifying or listing hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(c) of this section and for establishing reportable quantities for the added hazardous substances. The criteria for identifying or listing additional extremely hazardous substances and establishing threshold planning quantities and reportable quantities therefor and for identifying or listing additional hazardous chemicals and establishing threshold quantities and categories of health and physical hazards for the added hazardous chemicals shall be consistent with and equivalent to applicable criteria therefor under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. The criteria for identifying additional hazardous substances and for establishing reportable quantities of the added hazardous substances shall be consistent with and equivalent to the applicable criteria for identifying or listing hazardous substances and establishing reportable quantities therefor under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, and regulations adopted under it.

The rules shall require that, before identifying or listing any such additional extremely hazardous substance, hazardous chemical, or hazardous substance and establishing a threshold planning quantity, threshold quantity, or reportable quantity therefor, the commission find by a preponderance of the scientific evidence based on generally accepted scientific principles or laboratory tests that the substance or chemical poses a substantial risk of catastrophic injury to public health or safety or to the environment, or poses an extraordinary risk of injury to emergency management personnel responding to a release of the chemical or substance, when the chemical or substance is present at a facility in an amount equal to the proposed threshold planning quantity or threshold quantity or, in the instance of a proposed additional extremely hazardous substance or hazardous substance, poses a substantial risk of catastrophic injury to public health or safety or to the environment if a release of the proposed reportable quantity of the

substance occurs. The rules shall further require that, before so identifying or listing a substance or chemical, the commission find by a preponderance of the evidence that the development and implementation of state or local emergency response plans for releases of the substance or chemical will reduce the risk of a catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency response personnel, in the event of a release of the substance or chemical and find by a preponderance of the evidence that the identification or listing of the substance or chemical is necessary for the development of state or local emergency response plans for releases of the substance or chemical. The rules shall require that the commission consider the toxicity of the substance or chemical in terms of both the short-term and long-term health effects resulting from exposure to it and its reactivity, volatility, dispersibility, combustibility, and flammability when determining the risks posed by a release of the substance or chemical and, as appropriate, when establishing a threshold planning quantity, threshold quantity, reportable quantity, or category of health or physical hazard for it.

(5) Adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria and procedures for receiving and deciding claims for protection of information as a trade secret that are applicable only to extremely hazardous substances and hazardous chemicals identified or listed in rules adopted under division (C)(5) of this section. The rules shall be equivalent in scope, content, and coverage to section 322 of the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations adopted under it.

(6)(a) After consultation with the fire marshal, adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the construction, placement, and use of emergency response lock box units at facilities that are subject to this chapter. The rules shall establish all of the following:

(i) Specific standards of construction for lock box units;

(ii) The specific types of information that shall be placed in the lock box units required to be placed at a facility by an order issued under division (D) of section 3750.11 of the Revised Code, which shall include the location of on-site emergency fire-fighting and spill cleanup equipment; a diagram of the public and private water supply and sewage systems serving the facility that are known to the owner or operator of the facility; a copy of the emergency and hazardous chemical inventory form for the facility most recently required to be submitted under section 3750.08 of the Revised Code from which the owner or operator may withhold information claimed or

determined to be trade secret information pursuant to rules adopted under division (B)(2)(d) of this section, or pursuant to division (B)(14) of this section and rules adopted under division (B)(5) of this section, and confidential business information identified in rules adopted under division (B)(1)(h) of this section; a copy of the local fire department's and facility's emergency management plans for the facility, if any; a current list of the names, positions, addresses, and telephone numbers of all key facility personnel knowledgeable in facility safety procedures and the locations at the facility where extremely hazardous substances, hazardous chemicals, and hazardous substances are produced, used, or stored. The rules shall stipulate that, in the instance of lock box units placed voluntarily at facilities by the owners or operators of the facilities, such information shall be maintained in them as is prescribed by agreement by the owner or operator and the fire department having jurisdiction over the facility.

(iii) The conditions that shall be met in order to provide safe and expedient access to a lock box unit during a release or threatened release of an extremely hazardous substance, hazardous chemical, or hazardous substance.

(b) Unless the owner or operator of a facility is issued an order under division (D) of section 3750.11 of the Revised Code requiring the owner or operator to place a lock box unit at the facility, the owner or operator may place a lock box unit at the facility at the owner's or operator's discretion. If the owner or operator chooses to place a lock box unit at the facility, the responsibility to deposit information in the lock box unit is in addition to any other obligations established in this chapter.

(c) Any costs associated with the purchase, construction, or placement of a lock box unit shall be paid by the owner or operator of the facility.

(7) In accordance with Chapter 119. of the Revised Code, adopt rules governing the application for and awarding of grants under division (C) of section 3750.14 and division (B) of section 3750.15 of the Revised Code;

(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing reasonable maximum fees that may be charged by the commission and local emergency planning committees for copying information in the commission's or committee's files to fulfill requests from the public for that information;

(9) Adopt internal management rules governing the operations of the commission. The internal management rules shall establish an executive committee of the commission consisting of the director of environmental protection or the director's designee, the director of public safety or the director's designee, the attorney general or the attorney general's designee,

one of the appointed members of the commission representing industries subject to this chapter to be appointed by the commission, one of the appointed members of the commission representing the interests of environmental advocacy organizations to be appointed by the commission, and one other appointed member or member ex officio of the commission to be appointed by the commission. The executive committee has exclusive authority to issue enforcement orders under section 3750.18 of the Revised Code and to request the attorney general to bring a civil action, civil penalty action, or criminal action under section 3750.20 of the Revised Code in the name of the commission regarding violations of this chapter, rules adopted under it, or orders issued under it. The internal management rules may set forth the other specific powers and duties of the commission that the executive committee may exercise and carry out and the conditions under which the executive committee may do so. The internal management rules shall not authorize the executive committee to issue variances under division (B) or (C) of section 3750.11 of the Revised Code or orders under division (D) of that section.

(10) Oversee and coordinate the implementation and enforcement of this chapter and make such recommendations to the director of environmental protection and the director of public safety as it considers necessary or appropriate to improve the implementation and enforcement of this chapter;

(11) Make allocations of moneys under division (B) of section 3750.14 of the Revised Code and make grants under division (C) of section 3750.14 and division (B) of section 3750.15 of the Revised Code;

(12) Designate an officer of the environmental protection agency to serve as the commission's information coordinator under this chapter;

(13) Not later than December 14, 1989, develop and distribute a state emergency response plan that defines the emergency response roles and responsibilities of the state agencies that are represented on the commission and that provides appropriate coordination with the national contingency plan and the regional contingency plan required by section 105 of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended. The plan shall ensure a well-coordinated response by state agencies that may be involved in assisting local emergency responders during a major release of oil or a major sudden and accidental release of a hazardous substance or extremely hazardous substance. The plan may incorporate existing state emergency response plans by reference. At least annually, the commission and the state agencies that are represented on it shall jointly exercise the state plan in conjunction with the exercise of a local emergency response plan by a local

emergency planning committee under section 3750.04 of the Revised Code. After any such exercise, the commission shall review the state plan and make such revisions in it as the commission considers necessary or appropriate.

(14) Receive and decide claims for the protection of information as a trade secret that pertain only to extremely hazardous substances and hazardous chemicals identified or listed by rules adopted under division (C)(5) of this section. If the commission determines that the claim meets the criteria established in rules adopted under division (B)(5) of this section, it shall issue an order to that effect in accordance with section 3750.18 of the Revised Code. If the commission determines that the claim does not meet the criteria established in those rules, it shall issue an order to that effect in accordance with section 3750.18 of the Revised Code.

(15) Annually compile, make available to the public, and submit to the president of the senate and the speaker of the house of representatives a summary report on the number of facilities estimated to be subject to regulation under sections 3750.05, 3750.07, and 3750.08 of the Revised Code, the number of facilities reporting to the commission, an estimate of the percentage of facilities in compliance with those sections, and recommendations regarding the types of activities the commission considers necessary to improve such compliance. The commission shall base its estimate of the number of facilities that are subject to regulation under those sections on the current estimates provided by the local emergency planning committees under division (D)(6) of section 3750.03 of the Revised Code.

(C) The commission may:

(1) Procure by contract the temporary or intermittent services of experts or consultants when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(2) Enter into contracts or agreements with political subdivisions or emergency planning districts for the purposes of this chapter;

(3) Accept on behalf of the state any gift, grant, or contribution from any governmental or private source for the purposes of this chapter;

(4) Enter into contracts, agreements, or memoranda of understanding with any state department, agency, board, commission, or institution to obtain the services of personnel thereof or utilize resources thereof for the purposes of this chapter. Employees of a state department, agency, board, commission, or institution providing services to the commission under any such contract, agreement, or memorandum shall perform only those functions and provide only the services provided for in the contract,

greement, or memorandum.

(5) Identify or list extremely hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(a) of this section and establish threshold planning quantities and reportable quantities for the additional extremely hazardous substances, identify or list hazardous chemicals in addition to those identified or listed in rules adopted under division (B)(1)(b) of this section and establish threshold quantities and categories or health and physical hazards for the added chemicals, and identify or list hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(c) of this section and establish reportable quantities for the added hazardous substances. The commission may establish threshold planning quantities for the additional extremely hazardous substances based upon classes of those substances or categories of facilities at which they are present and may establish threshold quantities for the additional hazardous chemicals based upon classes of those chemicals or categories of facilities where they are present. The commission shall identify or list such additional substances or chemicals and establish threshold planning quantities, threshold quantities, reportable quantities, and hazard categories therefor in accordance with the criteria and procedures established in rules adopted under division (B)(4) of this section and, after compliance with those criteria and procedures, by the adoption of rules in accordance with Chapter 119. of the Revised Code. The commission shall not adopt rules under division (C)(5) of this section modifying any threshold planning quantity established in rules adopted under division (B)(1)(a) of this section, any threshold quantity established in rules adopted under division (B)(1)(b) of this section, or any reportable quantity established in rules adopted under division (B)(1)(c) of this section.

If, after the commission has adopted rules under division (C)(5) of this section identifying or listing an extremely hazardous substance, hazardous chemical, or hazardous substance, the administrator of the United States environmental protection agency identifies or lists the substance or chemical as an extremely hazardous substance or hazardous chemical under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, or identifies or lists a substance as a hazardous substance under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, the commission shall rescind its rules adopted under division (C)(5) of this section pertaining to the substance or chemical and adopt the appropriate rules under division (B)(1)(a), (b), or (c) of this section.

(6) From time to time, request the director of environmental protection

and the executive director of the emergency management agency to review implementation, administration, and enforcement of the chemical emergency response planning and reporting programs created by this chapter and rules adopted under it regarding their effectiveness in preparing for response to releases of extremely hazardous substances, hazardous chemicals, and hazardous substances. After completion of any such review, the director of environmental protection and the director of public safety shall report their findings to the commission. Upon receipt of their findings, the commission may make such recommendations for legislative and administrative action as the commission finds necessary or appropriate to promote achievement of the purposes of this chapter.

(D) Except as provided in section 3750.06 of the Revised Code, nothing in this chapter applies to the transportation, including the storage incident to transportation, of any substance or chemical subject to the requirements of this chapter, including the transportation and distribution of natural gas.

(E) This chapter authorizes the state, through the emergency response commission, the department of public safety, and the environmental protection agency, to establish and maintain chemical emergency response planning and preparedness, community right-to-know, and hazardous substance and extremely hazardous substance release reporting programs that are consistent with and equivalent in scope, coverage, and content to the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it, except as otherwise specifically required or authorized in this chapter. The commission, department, and agencies may do all things necessary, incidental, or appropriate to implement, administer, and enforce this chapter and to perform the duties and exercise the powers of the state emergency response commission under that act and regulations adopted under it and under this chapter.

Sec. 3770.071. (A) If the amount of the prize money or the cost of goods or services awarded as a lottery prize award is six hundred dollars or more, the director of the state lottery commission, or the director's designee, shall require the person entitled to the prize award to affirm in writing, under oath, whether or not the person is in default under a support order. The director or the director's designee also may take any additional appropriate steps to determine if the person entitled to the prize award is in default under a support order. If the person entitled to the prize award affirms that the person is in default under a support order, or if the director or the director's designee determines that the person is in default under a support order, the director or the director's designee shall temporarily

withhold payment of the prize award and inform the court that issued the support order that the person is entitled to a prize award, of the amount of the prize award, and, if the prize award is to be paid in annual installments, of the number of installments.

After receipt of the notice from the director or the director's designee, the court shall give the person notice of the director's notice, schedule a hearing to determine if the person is in default and the amount of the default, and give the person notice of the date, time, and location of the hearing. If the court at the hearing determines that the person is in default, it shall issue an order to the director at lottery commission headquarters requiring the director or the director's designee to deduct from any unpaid prize award or any annual installment payment of the prize award, a specified amount for child support or spousal support in satisfaction of the support order under which the person is in default. To the extent possible, the amount specified to be deducted under the order issued under this section shall satisfy the amount ordered for support or spousal support in the support order under which the person is in default. Within thirty days after the date on which the court issues the order under this section to the director, the director shall pay the amount specified in that order to the division of child support in the department of ~~human~~ job and family services. If the prize award is to be paid in annual installments, the director or the director's designee, on the date the installment payment is due, shall pay the amount specified in the court order issued under this section from that installment and, if necessary, any subsequent annual installments, at the time such installments become due and owing to the prize winner, to the division of child support.

(B) As used in this section, "support order" and "default" have the same meanings as in section 2301.34 of the Revised Code.

(C) No person shall knowingly make a false affirmation or oath required by division (A) of this section.

Sec. 3781.06. (A)(1) Any building that may be used as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy by the public, and all other buildings or parts and appurtenances thereof erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy, except that sections 3781.06 to 3781.18 and 3791.04 of the Revised Code shall be considered as model provisions with no force and effect when applied to single-family, two-family, and three-family dwelling houses, and accessory structures incidental to those dwelling houses, that have not been constructed or erected as industrialized one-family, two-family, or three-family units or

structures within the meaning of the term "industrialized unit" as provided in division (C)(3) of this section, except where the context specifies mandatory applicability.

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code shall be construed to limit the power of the public health council to adopt rules of uniform application governing manufactured home parks pursuant to section 3733.02 of the Revised Code.

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code shall not apply to either of the following:

(1) Buildings or structures that are incident to the use for agricultural purposes of the land on which such buildings or structures are located, provided such buildings or structures are not used in the business of retail trade. For purposes of this division, a building or structure is not considered used in the business of retail trade if fifty per cent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller.

(2) Existing single-family, two-family, and three-family detached dwelling houses for which applications have been submitted to the director of ~~human~~ job and family services pursuant to section 5104.03 of the Revised Code for the purposes of operating type A family day-care homes as defined in section 5104.01 of the Revised Code.

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code:

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(4) "Manufactured home" means a building unit or assembly of closed

construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

(5) "Permanent foundation" means permanent masonry, concrete, or a locally approved footing or foundation, to which a manufactured or mobile home may be affixed.

(6) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by section 3733.01 of the Revised Code.

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

(8) "Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

Sec. 3781.10. The board of building standards shall:

(A) Formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area

cidental thereto, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials to be used in connection therewith. The standards shall relate to the conservation of energy in and to the safety and sanitation of such buildings. The rules shall be the lawful minimum requirements specified for such buildings or industrialized units, except that no rule, except as provided in division (C) of section 3781.108 of the Revised Code, which specifies a higher requirement than is imposed by any section of the Revised Code shall be enforceable; the rules shall be acceptable as complete lawful alternatives to the requirements specified for such buildings or industrialized units in any section of the Revised Code; and the board shall on its own motion, or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) Formulate and report to the general assembly such amendments in existing statutes relating to the purposes declared in section 3781.06 of the Revised Code as public health and safety and the development of the arts require and such additional legislation as it recommends with a view to carrying out fully, in statutory form, the purposes declared in such section; and prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code;

(C) Determine by rule, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction, complies with performance standards adopted pursuant to section 3781.11 of the Revised Code, having regard to its adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction which is described in such section of the Revised Code, is permitted by law; and on like application amend or annul any such rule or issue an authorization for the use of a new material or manufactured unit; and no department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule adopted or authorization issued by the board of

building standards or in any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules adopted by the board of building standards pursuant to section 3781.11 of the Revised Code.

(D) Recommend to the bureau of workers' compensation, the director of commerce, or any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, the making, amending, fixing, or ordaining by such appropriate action as such state, county, township, or municipal authorities may be empowered by law or the constitution to take, of such rules, codes, or standards as shall tend to carry out the purposes declared in section 3781.06 of the Revised Code, with a view to securing uniformity of state administrative ruling; and local legislation and administrative action;

(E) Certify municipal, township, and county building departments to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

The board also shall certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in divisions (E)(1) and (2) of this section, to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements that shall be satisfied for certification purposes, which requirements shall be consistent with this division. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, in order to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification. In adopting the requirements, the board shall not specify less than thirty hours of continuing building code education within a three-year period; shall provide that continuing education credits, and certification issued, by the council of American building officials, national model code organizations, and agencies or entities recognized by the board, are acceptable for purposes of this division; and shall specify requirements that are compatible, to the extent possible, with requirements established by the council of American building officials and national model code organizations. The board shall establish and collect a certification and renewal fee for building department

personnel, and persons and employees of persons, firms, or corporations as described in divisions (E)(1) and (2) of this section, certified pursuant to this division.

All individuals certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit their certifications.

This division does not require or authorize the certification by the board of personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in divisions (E)(1) and (2) of this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or the making of inspections, under the Ohio building code.

(1) Enforcement authority for approval of plans and specifications may be exercised, and plans and specifications may be approved, on behalf of a municipal corporation, township, or county, by any of the following who are certified by the board of building standards:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, when such persons, firms, or corporations are under contract to furnish architectural or engineering services to the municipal corporation, township, or county, and such authority is exercised pursuant to such contract;

(c) Officers or employees of any other municipal corporation, township, county, health district, or other political subdivision, or persons or employees of persons, firms, or corporations under contract with the same pursuant to division (E)(1)(b) of this section, when such other municipal corporation, township, county, health district, or other political subdivision is under contract to furnish architectural or engineering services to the municipal corporation, township, or county, and such authority is exercised pursuant to such contract.

(2) Enforcement authority for inspections may be exercised, and inspections may be made, on behalf of a municipal corporation, township, or county, by any of the following who are certified by the board of building standards:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, when such persons, firms, or corporations are under contract to furnish inspection services to the municipal corporation, township, or county, and such authority is exercised pursuant to such contract;

(c) Officers or employees of any other municipal corporation, township, county, health district, or other political subdivision under contract to furnish inspection services to the municipal corporation, township, or county, when such authority is exercised pursuant to such contract.

(3) Municipal, township, and county building departments shall have jurisdiction within the meaning of sections 3781.03 and 3791.04 of the Revised Code, only with respect to the types of buildings and subject matters as to which they have been certified under this section and as to which such certification remains in effect.

(4) Such certification shall be upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of such application by the board of building standards. Such application shall set forth:

(a) The types of building occupancies as to which the certification is requested;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to divisions (E)(1)(b) and (2)(b) of this section;

(d) The names of other municipal corporations, townships, counties, health districts, or other political subdivisions contracting to furnish work or services pursuant to divisions (E)(1)(c) and (2)(c) of this section;

(e) The proposed budget for the operation of such department.

(5) The board of building standards shall adopt rules governing:

(a) The certification of building department personnel and of those persons and employees of persons, firms, or corporations exercising authority pursuant to divisions (E)(1) and (2) of this section. Any employee of the department or person who contracts for services with the department is disqualified from performing services for the department when the same would require the employee or person to pass upon, inspect, or otherwise exercise any authority given by the Ohio building code over any labor, material, or equipment furnished by the employee or person for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the requirements of the Ohio building code as it pertains to such work.

(b) The minimum services to be provided by a certified building department.

(6) Such certification may be revoked or suspended with respect to any or all of the building occupancies to which it relates on petition to the board of building standards by any person affected by such enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any such proceedings for certification or for revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(7) Upon certification, and until such authority is revoked, county and township building departments shall enforce such rules over those occupancies listed in the application without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) Conduct such hearings, in addition to those required by sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, and make such investigations and tests, and require from other state departments, officers, boards, and commissions such information as the board considers necessary or desirable in order to assist it in the discharge of any duty or in the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code;

(G) Formulate rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee established shall bear some reasonable relationship to the cost of such review or testing of the materials, assembly, or products submitted and notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) Compile and publish, in the form of a model code, rules pertaining to one-family, two-family, and three-family dwelling houses that any municipal corporation, township, or county may incorporate into its building code;

(I) Cooperate with the director of ~~human~~ job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes;

(J) Adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3793.051. The department of alcohol and drug addiction services, in conjunction with the department of ~~human~~ job and family services, shall develop a joint state plan to improve the accessibility and timeliness of

alcohol and drug addiction services for individuals identified by a public children services agency as in need of those services. The plan shall address the fact that Ohio works first participants may be among the persons receiving services under section 340.15 of the Revised Code and shall require the department of ~~human~~ job and family services to seek federal funds available under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, for the provision of the services to Ohio works first participants who are receiving services under section 340.15 of the Revised Code.

The plan shall address the need and manner for sharing information and include a request for the general assembly to appropriate an amount of funds specified in the report to be used by the departments to pay for services under section 340.15 of the Revised Code. The departments shall review and amend the plan as necessary.

Not later than the first day of July of each even-numbered year, the departments shall submit a report on the progress made under the joint state plan to the governor, president of the senate, and speaker of the house of representatives. The report shall include information on treatment capacity, needs assessments, and number of individuals who received services pursuant to section 340.15 of the Revised Code.

Sec. 3793.07. (A) As used in this section:

(1) "Medicare program" means the program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(2) "Medicaid program" means the program established under Title XIX of the "Social Security Act."

(B) Except as otherwise provided in this section, the department of alcohol and drug addiction services shall accept the certification or credentials of an individual who is a member of the profession of alcoholism counseling, drug abuse counseling, or chemical dependency counseling, or an individual who is an alcoholism or drug abuse prevention consultant or specialist only if the individual is certified by or holds credentials from the Ohio credentialing board for chemical dependency professionals.

(C) The department of alcohol and drug addiction services, in cooperation with the department of ~~human~~ job and family services and the Ohio credentialing board for chemical dependency professionals, shall prepare and submit to the federal agency responsible for administration of the medicare and medicaid programs a request that the agency accept for the purposes of reimbursement under those programs the certifications made and credentials issued by the Ohio credentialing board for chemical

dependency professionals. If the request is denied, the department of alcohol and drug addiction services shall assist the Ohio credentialing board for chemical dependency professionals in any actions taken by the board to establish standards that will be accepted by the federal agency and, in cooperation with the department of ~~human~~ job and family services, shall submit additional requests to the federal agency for approval of the board's standards. If the board changes its standards in order to obtain the approval of the federal agency, the changes shall apply only to certifications made and credentials issued after the effective date of the change and shall not affect the validity for the purposes of this section or section 4757.41 of the Revised Code of certifications made or credentials issued prior to that date. Nothing in this section shall be construed as requiring such certification or credentials for services that are not reimbursed by medicare or medicaid.

(D) If the director of alcohol and drug addiction finds that the public interest is not being served by acceptance of certifications and credentials issued by the Ohio credentialing board for chemical dependency professionals, the director shall make a written request to the council on alcohol and drug addiction services for authority for the department to establish a certification or credentialing program or accept certifications or credentials from an entity designated by the department.

If it determines that there is substantial evidence to support the director's finding, the council, by resolution, shall authorize the department to establish a certification or credentialing program or to accept certifications or credentials from an entity designated by the department, or both. The council shall issue copies of its resolution to the director and to the Ohio credentialing board for chemical dependency professionals.

On receipt of the resolution, the department shall, by rule adopted pursuant to Chapter 119. of the Revised Code, establish a certification or credentialing program or designate an entity from which it will accept certifications or credentials, or both. The rules are not subject to the council's review. The rules shall include standards for certification or issuance of credentials. The rules shall specify the date on which the program established by the department is authorized to certify or issue credentials to individuals or on which the department will accept certification or credentials of the designated entity.

Certifications made and credentials issued by the Ohio credentialing board for chemical dependency professionals prior to that date shall continue to be accepted by the department after that date.

Sec. 3793.15. (A) The department of alcohol and drug addiction services, in accordance with division (B) of this section, shall give priority

to developing, and promptly shall develop, with available public and private resources a program that does all of the following:

(1) Provides a manner of identifying the aggregate number of pregnant women in this state who are addicted to a drug of abuse;

(2) Provides for an effective means of intervention to eliminate the addiction of pregnant women to drugs of abuse prior to the birth of their children;

(3) Provides for the continued monitoring of women who were addicted to a drug of abuse during their pregnancies, after the birth of their children, and for the availability of treatment and rehabilitation for those women;

(4) Provides a manner of determining the aggregate number of children who are born in this state to women who are addicted, at the time of birth, to a drug of abuse, and of children who are born in this state with an addiction to or a dependency on a drug of abuse;

(5) Provides for the continued monitoring of children who are born in this state to women who are addicted, at the time of birth, to a drug of abuse, or who are born in this state with an addiction to or dependency on a drug of abuse, after their birth;

(6) Provides for the treatment and rehabilitation of any child who is born to a woman who is addicted, at the time of birth, to a drug of abuse, and of any child who is born with an addiction to or dependency on a drug of abuse.

(B) In developing the program described in division (A) of this section, the department may obtain information from the department of health and the department of ~~human~~ job and family services, and those departments shall cooperate with the department of alcohol and drug addiction services in its development and implementation of the program.

(C) Immediately upon its development of the program described in division (A) of this section, the department shall implement the program.

(D) Any record or information that is obtained or maintained by the department in connection with the program described in division (A) of this section and could enable the identification of any woman or child described in division (A)(1) or (4) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

Sec. 3923.50. For the purposes of the Ohio long-term care insurance program established under section 5111.18 of the Revised Code, the department of insurance shall notify the department of ~~human~~ job and family services of all long-term care insurance policies that meet all of the following requirements:

(A) Comply with sections 3923.41 to 3923.48 of the Revised Code and

the rules adopted under section 3923.47 of the Revised Code;

(B) Provide benefits for home and community-based services in addition to nursing home care;

(C) Include case management services in its coverage of home and community-based services;

(D) Provide five per cent inflation protection compounded annually;

(E) Provide for the keeping of records and explanation-of-benefit reports on insurance payments that count toward resource exclusion for the medical assistance program;

(F) Provide the information the director of ~~human~~ job and family services determines is necessary to document the extent of resource exclusion and to evaluate the Ohio long-term care insurance program;

(G) Comply with other requirements established in rules adopted under this section.

The superintendent of insurance shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements under division (G) of this section that policies must meet to qualify under the Ohio long-term care insurance program. The superintendent shall consult with the departments of aging and ~~human~~ job and family services in adopting those rules.

Sec. 3924.42. No health insurer shall impose requirements on the department of ~~human~~ job and family services, when it has been assigned the rights of an individual who is eligible for medical assistance under Chapter 5111. of the Revised Code and who is covered under a health care policy, contract, or plan issued by the health insurer, that are different from the requirements applicable to an agent or assignee of any other individual so covered.

Sec. 3924.47. If a child has health care coverage through a health insurer of a noncustodial parent, the health insurer shall do all of the following:

(A) Provide such information to the custodial parent of the child as may be necessary for the child to obtain benefits through the coverage;

(B) Permit the custodial parent, or a provider with the approval of the custodial parent, to submit claims for covered services without the approval of the noncustodial parent;

(C) Make payment on claims submitted in accordance with division (B) of this section directly to the custodial parent, the provider, or the department of ~~human~~ job and family services.

Sec. 3929.721. (A) The superintendent of insurance may dissolve, in accordance with this section, the joint underwriting association created

der section 3929.72 of the Revised Code and the board of governors of the association.

(B) The superintendent shall submit a proposed plan for dissolution of the association and the board of governors to the board for its approval. The plan, at a minimum, shall do all of the following:

(1) Require that any remaining liability under any policy issued by the association be reinsured with one or more insurers authorized to assume such liability. The association shall pay the premium for such reinsurance.

(2) Provide for the payment of any remaining expenses of the association;

(3) Require that any remaining funds of the association, excluding moneys in or in an account of the stabilization reserve fund created by former section 3929.74 of the Revised Code, be paid, by certified check, cashier's check, or wire transfer payable to the treasurer of state, to the state treasury to the credit of the general revenue fund for purposes of providing moneys to support the general assembly's appropriation to the department of ~~human~~ job and family services for the state's share of health care. The board shall take whatever action is necessary to effect this payment of funds.

(4) Set forth the date of the dissolution of the board;

(5) Set forth any other conditions necessary for the dissolution of the association.

(C) If the board of governors approves the plan for dissolution submitted under division (B) of this section and if the superintendent finds that the liabilities of the association have been extinguished or reinsured and all other conditions set forth in the plan have been met, the superintendent shall issue an order dissolving the association and the board and setting forth the date of the dissolution of each.

(D)(1) The following shall not incur or suffer any liability whatsoever to any person by reason of actions taken in order to comply with this section:

(a) The joint underwriting association;

(b) The board of governors of the joint underwriting association or any member of the board;

(c) The agents or employees of the joint underwriting association;

(d) The superintendent;

(e) Any other state officer responsible for the care and custody of the funds of the joint underwriting association;

(f) The Ohio fair plan underwriting association, the board of governors of the association, any member of the board, or any of the association's members, officers, employees, or agents, acting in accordance with the terms of any contract entered into under division (A) of section 3929.482 of

the Revised Code or any contract entered into pursuant to the terms of the plan for dissolution established under this section.

(2) Any action that, but for division (D)(1) of this section, could have been brought against any association, board, or person described in division (D)(1) of this section shall be brought against the state of Ohio.

Sec. 4109.01. As used in this chapter:

(A) "Employ" means to permit or suffer to work.

(B) "Employer" means the state, its political subdivisions, and every person who employs any individual.

(C) "Enforcement official" means the ~~administrator~~ director of ~~the bureau of employment services~~ commerce or ~~his~~ the director's authorized representative, the superintendent of public instruction or ~~his~~ the superintendent's authorized representative, any school attendance officer, any probation officer, the director of health or ~~his~~ the director of health's authorized representative, and any representative of a local department of health.

(D) "Minor" means any person less than eighteen years of age.

Sec. 4109.05. (A) The ~~administrator~~ director of ~~the bureau of employment services~~ commerce, after consultation with the director of health, shall adopt rules, in accordance with Chapter 119. of the Revised Code, prohibiting the employment of minors in occupations which are hazardous or detrimental to the health and well-being of minors.

In adopting the rules, the ~~administrator~~ director of commerce shall consider the orders issued pursuant to the "Fair Labor Standards Act of 1938," 52 Stat~~;~~. 1060, 29 U.S.C. 201, as amended.

(B) No minor may be employed in any occupation found hazardous or detrimental to the health and well-being of minors under the rules adopted pursuant to division (A) of this section.

Sec. 4109.08. (A) No minor shall be employed unless the employer keeps on the premises a complete list of all minors employed by the employer at a particular establishment and a printed abstract to be furnished by the ~~bureau~~ director of ~~employment services~~ commerce summarizing the provisions of this chapter.

The list and abstract shall be posted in plain view in a conspicuous place which is frequented by the largest number of minor employees, and to which all minor employees have access.

(B) An enforcement official may require any employer, in or about whose establishment an employee apparently under eighteen years of age is employed and whose age and schooling certificate is not filed as required by section 4109.02 of the Revised Code, to furnish the enforcement official

satisfactory evidence that the employee is in fact eighteen years of age or older. The enforcement official shall require from the employer, unless an over-age certificate issued in accordance with section 3331.15 of the Revised Code is held by the employee, the same evidence of age of the employee as is required by section 3331.02 of the Revised Code upon the issuance of an age and schooling certificate. No employer shall fail to produce the evidence.

(C) Any employee apparently under eighteen years of age, working in any occupation or establishment with respect to which there are restrictions by rule or law governing the employment of minors, with respect to whom the employer has not furnished satisfactory evidence that the person is at or above the age required for performance of employment with the employer after being requested to do so, and who refuses to give to an enforcement official ~~his~~ the employee's name, age, and place of residence may be taken into custody and charged with being an unruly child or other appropriate charge under Chapter 2151. of the Revised Code.

(D) No person shall, with the intent to assist a minor to procure employment, make a false statement to any employer or to any person authorized to issue an age and schooling certificate.

Sec. 4109.11. Every employer shall keep a time book or other written records which shall state the name, address, and occupation of each minor employed, the number of hours worked by such minor on each day of the week, the hours of beginning and ending work, the hours of beginning and ending meal periods, and the amount of wages paid each pay period to each minor. The ~~administrator~~ director of ~~the bureau of employment services~~ commerce or ~~his~~ the director's authorized representative shall have access to and the right to copy from the time book or records. Records shall be kept for a period of two years. No employer shall fail to keep such time book or records, or knowingly make false statements therein, or refuse to make the time book and records accessible, upon request, to the ~~administrator~~ director or ~~his~~ the director's authorized representative.

Sec. 4109.12. (A) No person shall continue to employ any minor in violation of any law relating to the employment of minors after being notified of the violation in writing by the ~~administrator~~ director of ~~the bureau of employment services~~ commerce or other enforcement official.

Failure of the ~~administrator~~ director or other enforcement official to give such notice does not excuse or negate a conviction for any offense except a violation of this division.

(B) No employer shall employ, and no person having under ~~his~~ the person's control as parent, guardian, or custodian, any minor, shall permit or

suffer a minor to be employed in violation of any law relating to the employment of minors for which a penalty is not otherwise provided by law.

Sec. 4109.13. (A) The ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall designate enforcement officials to enforce this chapter.

(B) An enforcement official shall, upon discovery of a violation of this chapter and after notice to the employer, make a complaint against the offending employer in any court of competent jurisdiction.

(C) Enforcement officials shall make complaint by filing a complaint before a court having competent jurisdiction against any person violating any law relating to the employment of minors. This section shall not be construed to limit the right of other persons to make such complaints.

(D) County courts, municipal courts, and juvenile courts have jurisdiction to try offenses under this chapter and section 3321.38 of the Revised Code.

(E) No person or enforcement official instituting proceedings under this section shall be required to file or give security for the costs. If a defendant is acquitted, the judge, police judge, or juvenile judge before whom the case is brought shall certify the costs to the county auditor, who shall examine the amount and, if necessary, correct it; and shall issue ~~his~~ a warrant on the county treasurer in favor of the persons to whom costs are due.

(F) Fines collected for violations of this chapter and section 3321.38 of the Revised Code shall be paid into the funds of the school district in which the offense was committed.

Sec. 4109.21. (A) No employer shall employ any minor who is under sixteen years of age in any door-to-door sales activity unless that employer is registered pursuant to this section and otherwise is in compliance with the requirements of this chapter.

(B) To obtain registration as a door-to-door employer, an employer shall apply to the ~~administrator~~ director of ~~the bureau of employment services~~ commerce, on forms provided by the ~~administrator~~ director. The application form shall include all of the following:

(1) The name, principal business address, and telephone number of the applicant. If the applicant is a partnership or association, the names of all the members also shall be stated and, if the applicant is a corporation, the names of its president and each of its officers also shall be stated.

(2) A certification that the applicant and its employees:

(a) Are in compliance with and will comply with all applicable Ohio and federal laws and regulations relating to the employment of minors;

(b) Will provide at least one supervisor who is over the age of eighteen,

for each six minor employees, who is at all times available and responsible for assuring the minor's well-being, and who remains in the general area and in visual contact with each minor employed in door-to-door sales activities at least once every twenty minutes;

(c) Will require all minors to work at least in pairs with others who are engaged in substantially the same activity, employing insofar as possible canvassing techniques that keep the persons working in pairs in close proximity and view of each other;

(d) Are in compliance with Ohio's motor vehicle financial responsibility, workers' compensation, unemployment compensation, and all other applicable laws; and

(e) Will not employ any minor who does not have an appropriate age and schooling certificate if that minor is required by Ohio law to have the certificate to be employed.

(3) A certification, as evidenced by a current official inspection sticker issued by the Ohio state highway patrol, that each motor vehicle used by the applicant and the applicant's employees for the purpose of transport of minors for door-to-door sales activities complies with all applicable motor vehicle safety laws;

(4) A certification that any person who transports by motor vehicle minors for purposes of door-to-door sales activities possesses a valid and properly issued Ohio motor vehicle driver's license, which license is not under suspension.

(C)(1) The ~~administrator~~ director shall issue a registration to each applicant who satisfactorily submits an application pursuant to this section and otherwise meets all of the requirements of this section. If the ~~administrator~~ director fails to issue or deny a registration or its renewal within fifteen days of submission of the application or renewal, the applicant is deemed registered under this section. Each registration expires one year after its issuance. To obtain a renewal of registration, the holder of the registration shall apply for renewal to the ~~administrator~~ director according to the procedures of division (B) of this section for the initial issuance of the registration.

(2) Each employer issued a registration pursuant to this section shall provide each minor employee who is engaged in door-to-door sales, prior to beginning employment with the employer, an identification card in a form prescribed by the ~~administrator~~ director. The card shall include, at a minimum, a picture of the minor employee, the minor employee's name, the name and address of the employer, a statement that the employer is registered with the ~~bureau~~ director of ~~employment services~~ commerce, and

the employer's registration number.

(D) The ~~administrator~~ director, pursuant to a hearing conducted in accordance with Chapter 119. of the Revised Code, may refuse to issue or renew a door-to-door sales registration or revoke a door-to-door sales registration if the ~~administrator~~ director determines that the applicant, registrant, any member of an applicant's or registrant's partnership or association, or any officer or employee of an applicant or registrant has done any of the following:

(1) Obtained or attempted to obtain ~~his~~ a registration by fraud or misrepresentation;

(2) Been guilty of gross misconduct in the pursuit of ~~his~~ the door-to-door sales profession;

(3) Violated or is threatening to violate any provision of this or any other state or federal law or regulation which regulates the employment of minors.

(E) No employer whose registration has been revoked under this section may apply for registration for two years from the date of the revocation. The ~~administrator~~ director may require such employer upon application for a registration to meet conditions in addition to those provided in this section for registration and renewal as the ~~administrator~~ director determines necessary to safeguard the interests of minors to be employed by the employer.

(F) No employer may employ:

(1) Any minor who is under sixteen years of age in any door-to-door sales activity before seven a.m. or after seven p.m. or during school hours except where specifically permitted by this chapter;

(2) Any minor who is sixteen or seventeen years of age in any door-to-door sales activity before seven a.m. or after eight p.m. or during school hours except where specifically permitted by this chapter.

(G) As used in this section, "door-to-door sales activity" means any activity involving selling or offering to sell any candy, cookies, flowers, newspapers, magazines, newspaper or magazine subscriptions, household cleaning products, or any other merchandise or commodity at a place of business other than the employer's place of business but does not mean any such activity conducted in connection with a bona fide educational, charitable, or religious activity or for a newspaper subscription drive provided that the minor also is engaged in the delivery of newspapers to the consumer for the newspaper in which the subscription drive is conducted and further provided that the subscription drive is supervised by an individual who is eighteen years of age or older and an employee of the

newspaper's subscription drive.

Sec. 4111.01. As used in sections 4111.01 to 4111.17 of the Revised Code:

(A) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the deductions, charges, or allowances permitted by rules of the ~~administrator~~ director of ~~the bureau of employment services~~ commerce under section 4111.05 of the Revised Code. "Wage" includes an employee's commissions of which the employee's employer keeps a record, but does not include gratuities, except as provided by rules issued under section 4111.05 of the Revised Code.

"Wage" also includes the reasonable cost to the employer of furnishing to an employee board, lodging, or other facilities, if the board, lodging, or other facilities are customarily furnished by the employer to the employer's employees. The cost of board, lodging, or other facilities shall not be included as part of wage to the extent excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the employee.

(B) "Employ" means to suffer or to permit to work.

(C) "Employer" means the state of Ohio, its instrumentalities, and its political subdivisions and their instrumentalities, any individual, partnership, association, corporation, business trust, or any person or group of persons, acting in the interest of an employer in relation to an employee, but does not include an employer whose annual gross volume of sales made for business done is less than one hundred fifty thousand dollars, exclusive of excise taxes at the retail level which are separately stated.

(D) "Employee" means any individual employed by an employer but does not include:

(1) Any individual employed by the United States;

(2) Any individual employed as a baby-sitter in the employer's home, or a live-in companion to a sick, convalescing, or elderly person whose principal duties do not include housekeeping;

(3) Any individual engaged in the delivery of newspapers to the consumer;

(4) Any individual employed as an outside salesperson compensated by commissions or in a bona fide executive, administrative, or professional capacity as such terms are defined by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as amended;

(5) Any employee employed in agriculture if the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred worker-days of

icultural labor, or if the employee is the parent, spouse, child, or other member of the employer's immediate family;

(6) Any individual who works or provides personal services of a charitable nature in a hospital or health institution for which compensation is not sought or contemplated;

(7) A member of a police or fire protection agency or student employed on a part-time or seasonal basis by a political subdivision of this state;

(8) Any individual in the employ of a camp or recreational area for children under eighteen years of age and owned and operated by a nonprofit organization or group of organizations described in Section 501 (c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under Section 501 (a) of that code;

(9) Any individual employed directly by the house of representatives or directly by the senate.

(E) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which individuals are employed.

Sec. 4111.03. (A) An employer shall pay an employee for overtime at a wage rate of one and one-half times the employee's wage rate for hours worked in excess of forty hours in one workweek, in the manner and methods provided in and subject to the exemptions of section 7 and section 13 of the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended.

Any employee employed in agriculture shall not be covered by the overtime provision of this section.

(B) For the purposes of this section, the number of hours worked by a county employee in any one workweek shall be deemed to include, in addition to hours actually worked, all periods in an active pay status.

(C) If a county employee elects to take compensatory time off in lieu of overtime pay, for any overtime worked, such compensatory time may be granted by ~~his~~ the employee's administrative superior, on a time and one-half basis, at a time mutually convenient to the employee and the administrative superior within one hundred eighty days after the overtime is worked.

(D) A county appointing authority with the exception of the county department of ~~human~~ job and family services may, by rule or resolution as is appropriate, indicate the authority's intention not to be bound by division (B) or (C) of this section, and to adopt a different policy for the calculation and payment of overtime that is embodied in those divisions. Upon adoption, the alternative policy prevails. Prior to the adoption of an alternative overtime

policy, the county appointing authority with the exception of the county department of ~~human~~ job and family services shall give a written notice of the alternative policy to each employee at least ten days prior to the effective date of the policy.

Sec. 4111.04. The ~~administrator~~ director of ~~the bureau of employment services~~ commerce may:

(A) Investigate and ascertain the wages of persons employed in any occupation in the state;

(B) Enter and inspect the place of business or employment of any employer for the purpose of inspecting any books, registers, payrolls, or other records of the employer that in any way relate to the question of wages, hours, and other conditions of employment of any employees, and may question the employees for the purpose of ascertaining whether sections 4111.01 to 4111.17 of the Revised Code, and the rules adopted thereunder, have been and are being obeyed. In conducting ~~his~~ an inspection of the records of an employer, the ~~administrator~~ director shall make every effort to coordinate ~~his~~ the inspection with those conducted by the federal agency responsible for enforcement of the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as amended. If the federal agency has completed an audit or examination of the employer's records within the sixty days prior to the date the ~~administrator~~ director notifies the employer of ~~his~~ the director's intent to examine the employer's records, the ~~administrator~~ director shall accept in lieu of ~~his~~ the director's own inspection, a report from the federal agency that the employer is in compliance with the federal act, unless the ~~administrator~~ director has reasonable grounds for believing that the report is inaccurate or incomplete for the purposes of sections 4111.01 to 4111.13 of the Revised Code, or that events occurring since the audit give the ~~administrator~~ director reasonable grounds for believing that a violation of sections 4111.01 to 4111.13 of the Revised Code has occurred.

(C) In the event ~~he~~ the director is prohibited by any employer from carrying out the intent of this section, ~~he~~ the director may apply to any court of common pleas having jurisdiction of that employer or the place of employment under investigation, for an order directing compliance with this section. Failure of the employer to obey the order of the court may be punished by said court as a contempt thereof.

Sec. 4111.05. The ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall adopt rules in accordance with Chapter 119. of the Revised Code as ~~he~~ the director considers appropriate to carry out the purposes of sections 4111.01 to 4111.17 of the Revised Code. The rules may

be amended from time to time and may include, but are not limited to, rules defining and governing apprentices, their number, proportion, and length of service; bonuses and special pay for special or extra work; permitted deductions or charges to employees for board, lodging, apparel, or other facilities or services customarily furnished by employers to employees; inclusion of ascertainable gratuities in wages paid; allowances for unascertainable gratuities or for other special conditions or circumstances which may be usual in particular employer-employee relationships; and the method of computation or the period of time over which wages may be averaged to determine whether the minimum wage or overtime rate has been paid.

Sec. 4111.06. In order to prevent curtailment of opportunities for employment, to avoid undue hardship, and to safeguard the minimum wage rates under sections 4111.01 to 4111.17 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall adopt rules under section 4111.05 of the Revised Code, permitting employment in any occupation at wages lower than the wage rates applicable under sections 4111.01 to 4111.17 of the Revised Code, of individuals whose earning capacity is impaired by physical or mental deficiencies or injuries. The rules shall provide for licenses to be issued authorizing employment at the wages of specific individuals or groups of employees, or by specific employers or groups of employers, pursuant to the rules. The rules shall not conflict with the "Americans with Disabilities Act of 1990," 104 Stat. 328, 42 U.S.C.A. 12111, et seq.

Sec. 4111.07. The ~~administrator~~ director of ~~the bureau of employment services~~ commerce may adopt rules under section 4111.05 of the Revised Code, permitting employment of apprentices at a wage rate not less than eighty-five per cent of the minimum wage rate applicable under sections 4111.01 to 4111.17 of the Revised Code. The rules shall provide for licenses to be issued for periods not to exceed ninety days and authorizing employment at the wages of specific individuals or groups ~~or~~ of employees, or by specific employers or groups of employers, pursuant to the rules.

Sec. 4111.08. Every employer subject to sections 4111.01 to 4111.17 of the Revised Code, or to any rule adopted thereunder, shall make and keep for a period of not less than three years a record of the name, address, and occupation of each of ~~his~~ the employer's employees, the rate of pay and the amount paid each pay period to each employee, the hours worked each day and each work week by the employee, and other information as the ~~administrator~~ director of ~~the bureau of employment services~~ commerce prescribes by rule as necessary or appropriate for the enforcement of

sections 4111.01 to 4111.17 of the Revised Code, or of the rules thereunder. Records may be opened for inspection or copying by the ~~administrator~~ director at any reasonable time.

Sec. 4111.09. Every employer subject to sections 4111.01 to 4111.17 of the Revised Code, or to any rules issued thereunder, shall keep a summary of the sections, approved by the ~~administrator~~ director of ~~the bureau of employment services~~ commerce, and copies of any applicable rules issued thereunder, or a summary of the rules, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed. Employees shall be furnished copies of the summaries and rules by the state, on request, without charge.

Sec. 4111.10. (A) Any employer who pays any employee less than wages to which the employee is entitled under sections 4111.01 to 4111.17 of the Revised Code, is liable to the employee affected for the full amount of the wage rate, less any amount actually paid to the employee by the employer, and for costs and reasonable attorney's fees as may be allowed by the court. Any agreement between the employee and the employer to work for less than the wage rate is no defense to an action.

(B) At the written request of any employee paid less than the wages to which ~~he~~ the employee is entitled under sections 4111.01 to 4111.17 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce may take an assignment of a wage claim in trust for the assigning employee and may bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court.

Sec. 4111.13. (A) No employer shall hinder or delay the ~~administrator~~ director of ~~the bureau of employment services~~ commerce in the performance of ~~his~~ the director's duties in the enforcement of sections 4111.01 to 4111.17 of the Revised Code, or refuse to admit the ~~administrator~~ director to any place of employment, or fail to make, keep, and preserve any records as required under those sections, or falsify any of those records, or refuse to make them accessible to the ~~administrator~~ director upon demand, or refuse to furnish them or any other information required for the proper enforcement of those sections to the ~~administrator~~ director upon demand, or fail to post a summary of those sections or a copy of any applicable rules as required by section 4111.09 of the Revised Code. Each day of violation constitutes a separate offense.

(B) No employer shall discharge or in any other manner discriminate against any employee because the employee has made any complaint to ~~his~~ the employee's employer, or to the ~~administrator~~ director, that ~~he~~ the

employee has not been paid wages in accordance with sections 4111.01 to 4111.17 of the Revised Code, or because the employee has made any complaint or is about to cause to be instituted any proceeding under or related to those sections, or because the employee has testified or is about to testify in any proceeding.

(C) No employer shall pay or agree to pay wages at a rate less than the rate applicable under sections 4111.01 to 4111.17 of the Revised Code. Each week or portion thereof for which the employer pays any employee less than the rate applicable under those sections constitutes a separate offense as to each employer.

(D) No employer shall otherwise violate sections 4111.01 to 4111.17 of the Revised Code, or any rule adopted thereunder. Each day of violation constitutes a separate offense.

Sec. 4111.17. (A) No employer, including the state and political subdivisions thereof, shall discriminate in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry by paying wages to any employee at a rate less than the rate at which ~~he~~ the employer pays wages to another employee for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar conditions.

(B) Nothing in this section prohibits an employer from paying wages to one employee at a rate different from that at which ~~he~~ the employer pays another employee for the performance of equal work under similar conditions on jobs requiring equal skill, effort, and responsibility, when the payment is made pursuant to any of the following:

(1) A seniority system;

(2) A merit system;

(3) A system which measures earnings by the quantity or quality of production;

(4) A wage rate differential determined by any factor other than race, color, religion, sex, age, national origin, or ancestry.

(C) No employer shall reduce the wage rate of any employee in order to comply with this section.

(D) The ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall carry out, administer, and enforce this section. Any employee discriminated against in violation of this section may sue in any court of competent jurisdiction to recover two times the amount of the difference between the wages actually received and the wages received by a person performing equal work for the employer, from the date of the commencement of the violation, and for costs, including attorney fees. The

~~administrator~~ director may take an assignment of any such wage claim in trust for such employee and sue in ~~his or her~~ the employee's behalf. In any civil action under this section, two or more employees of the same employer may join as co-plaintiffs in one action. The ~~administrator~~ director may sue in one action for claims assigned to ~~him~~ the director by two or more employees of the same employer. No agreement to work for a discriminatory wage constitutes a defense for any civil or criminal action to enforce this section. No employer shall discriminate against any employee because such employee makes a complaint or institutes, or testifies in, any proceeding under this section.

(E) Any action arising under this section shall be initiated within one year after the date of violation.

Sec. 4112.02. It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, national origin, handicap, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(B) For an employment agency or personnel placement service, because of race, color, religion, sex, national origin, handicap, age, or ancestry, to do any of the following:

(1) Refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person;

(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.

(C) For any labor organization to do any of the following:

(1) Limit or classify its membership on the basis of race, color, religion, sex, national origin, handicap, age, or ancestry;

(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, national origin, handicap, age, or ancestry.

(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, national origin, handicap, or ancestry in admission to, or employment in, any program established to provide apprentice training.

(E) Except where based on a bona fide occupational qualification

rtified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:

(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, national origin, handicap, age, or ancestry of an applicant for employment or membership;

(2) Make or keep a record of the race, color, religion, sex, national origin, handicap, age, or ancestry of any applicant for employment or membership;

(3) Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding race, color, religion, sex, national origin, handicap, age, or ancestry; but an employer holding a contract containing a nondiscrimination clause with the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes;

(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination, based upon race, color, religion, sex, national origin, handicap, age, or ancestry;

(5) Announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race, color, religion, sex, national origin, handicap, age, or ancestry of that group;

(6) Utilize in the recruitment or hiring of persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against persons because of their race, color, religion, sex, national origin, handicap, age, or ancestry.

(F) For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's race, color, religion, sex, national origin, handicap, age, or ancestry, or expresses a limitation or preference as to the race, color, religion, sex, national origin, handicap, age, or ancestry of any prospective employer.

(G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race, color, religion, sex, national origin, handicap, age, or ancestry, the full enjoyment of the

accommodations, advantages, facilities, or privileges of the place of public accommodation.

(H) For any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, handicap, or national origin;

(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of race, color, religion, sex, familial status, ancestry, handicap, or national origin;

(3) Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of race, color, religion, sex, familial status, ancestry, handicap, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of race, color, religion, sex, familial status, ancestry, handicap, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(5) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of race, color, religion, sex, familial status, ancestry, handicap, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(6) Refuse to consider without prejudice the combined income of both

husband and wife for the purpose of extending mortgage credit to a married couple or either member of a married couple;

(7) Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or advertisement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations, or relating to the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, that indicates any preference, limitation, specification, or discrimination based upon race, color, religion, sex, familial status, ancestry, handicap, or national origin, or an intention to make any such preference, limitation, specification, or discrimination;

(8) Except as otherwise provided in division (H)(8) or (17) of this section, make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning race, color, religion, sex, familial status, ancestry, handicap, or national origin in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations. Any person may make inquiries, and make and keep records, concerning race, color, religion, sex, familial status, ancestry, handicap, or national origin for the purpose of monitoring compliance with this chapter.

(9) Include in any transfer, rental, or lease of housing accommodations any restrictive covenant, or honor or exercise, or attempt to honor or exercise, any restrictive covenant;

(10) Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the racial, religious, sexual, familial status, or ethnic composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons of any race, color, religion, sex, familial status, ancestry, handicap, or national origin, in the block, neighborhood, or other area will or may have results including, but not limited to, the following:

(a) The lowering of property values;

(b) A change in the racial, religious, sexual, familial status, or ethnic composition of the block, neighborhood, or other area;

(c) An increase in criminal or antisocial behavior in the block,

neighborhood, or other area;

(d) A decline in the quality of the schools serving the block, neighborhood, or other area.

(11) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race, color, religion, sex, familial status, national origin, handicap, or ancestry;

(12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;

(13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, familial status, or ethnic composition;

(14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, familial status, age, ancestry, handicap, or national origin of any prospective owner or user of the lot;

(15) Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing accommodations to any buyer or renter because of a handicap of any of the following:

(a) The buyer or renter;

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(15)(b) of this section.

(16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a handicap of any of the following:

(a) That person;

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(16)(b) of this section.

(17) Except as otherwise provided in division (H)(17) of this section, make an inquiry to determine whether an applicant for the sale or rental of

housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a handicap, or make an inquiry to determine the nature or severity of a handicap of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have handicaps:

(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with handicaps or persons with a particular type of handicap;

(c) An inquiry to determine whether an applicant is qualified for a priority available to persons with handicaps or persons with a particular type of handicap;

(d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance;

(e) An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.

(18)(a) Refuse to permit, at the expense of a handicapped person, reasonable modifications of existing housing accommodations that are occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full enjoyment of the housing accommodations. This division does not preclude a landlord of housing accommodations that are rented or to be rented to a handicapped tenant from conditioning permission for a proposed modification upon the handicapped tenant's doing one or more of the following:

(i) Providing a reasonable description of the proposed modification and reasonable assurances that the proposed modification will be made in a ~~workmanlike~~ workerlike manner and that any required building permits will be obtained prior to the commencement of the proposed modification;

(ii) Agreeing to restore at the end of the tenancy the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if it is reasonable for the landlord to condition permission for the proposed modification upon the agreement;

(iii) Paying into an interest-bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy of the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the handicapped tenant who makes payments into the account.

(b) A landlord shall not condition permission for a proposed modification upon a handicapped tenant's payment of a security deposit that exceeds the customarily required security deposit of all tenants of the particular housing accommodations.

(19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;

(20) Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Revised Code;

(21) Discriminate against any person in the selling, brokering, or appraising of real property because of race, color, religion, sex, familial status, ancestry, handicap, or national origin;

(22) Fail to design and construct covered multifamily dwellings for first occupancy on or after June 30, 1992, in accordance with the following conditions:

(a) The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

(b) With respect to dwellings that have a building entrance on an accessible route, all of the following apply:

(i) The public use areas and common use areas of the dwellings shall be readily accessible to and usable by handicapped persons.

(ii) All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by handicapped persons in wheelchairs.

(iii) All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats, and other environmental controls within such units shall be in accessible locations; the bathroom walls within such units

shall contain reinforcements to allow later installation of grab bars; and the kitchens and bathrooms within such units shall be designed and constructed in a manner that enables an individual in a wheelchair to maneuver about such rooms.

For purposes of division (H)(22) of this section, "covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(I) For any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.

(J) For any person to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, to obstruct or prevent any person from complying with this chapter or any order issued under it, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice.

(K)(1) Nothing in division (H) of this section shall bar any religious or denominational institution or organization, or any nonprofit charitable or educational organization that is operated, supervised, or controlled by or in connection with a religious organization, from limiting the sale, rental, or occupancy of housing accommodations that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference in the sale, rental, or occupancy of such housing accommodations to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin.

(2) Nothing in division (H) of this section shall bar any bona fide private or fraternal organization that, incidental to its primary purpose, owns or operates lodgings for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(3) Nothing in division (H) of this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations. Nothing in that division prohibits the owners or managers of housing accommodations from implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to

ircumvent the purposes of this chapter and are formulated, implemented, and interpreted in a manner consistent with this chapter and any applicable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.

(4) Nothing in division (H) of this section requires that housing accommodations be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(5) Nothing in division (H) of this section pertaining to discrimination on the basis of familial status shall be construed to apply to any of the following:

(a) Housing accommodations provided under any state or federal program that have been determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended, to be specifically designed and operated to assist elderly persons;

(b) Housing accommodations intended for and solely occupied by persons who are sixty-two years of age or older;

(c) Housing accommodations intended and operated for occupancy by at least one person who is fifty-five years of age or older per unit, as determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended.

(L) Nothing in divisions (A) to (E) of this section shall be construed to require a handicapped person to be employed or trained under circumstances that would significantly increase the occupational hazards affecting either the handicapped person, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of a handicapped person in a job that requires the handicapped person routinely to undertake any task, the performance of which is substantially and inherently impaired by the handicapped person's handicap.

(M) Nothing in divisions (H)(1) to (18) of this section shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for a person having a handicap, to relieve any handicapped person of any obligation generally imposed on all persons regardless of handicap in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract.

(N) An aggrieved individual may enforce the individual's rights relative to discrimination on the basis of age as provided for in this section by

instituting a civil action, within two years after the alleged unlawful discriminatory practice occurred, in any court with jurisdiction for any legal or equitable relief that will effectuate the individual's rights.

A person who files a civil action under this division is barred, with respect to the practices complained of, from instituting a civil action under section 4112.14 of the Revised Code and from filing a charge with the commission under section 4112.05 of the Revised Code.

(O) With regard to age, it shall not be an unlawful discriminatory practice and it shall not constitute a violation of division (A) of section 4112.14 of the Revised Code for any employer, employment agency, joint labor-management committee controlling apprenticeship training programs, or labor organization to do any of the following:

(1) Establish bona fide employment qualifications reasonably related to the particular business or occupation that may include standards for skill, aptitude, physical capability, intelligence, education, maturation, and experience;

(2) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, including, but not limited to, a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this section. However, no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual, because of the individual's age except as provided for in the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 623, as amended.

(3) Retire an employee who has attained sixty-five years of age who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer of the employee, which equals, in the aggregate, at least forty-four thousand dollars, in accordance with the conditions of the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 631, as amended;

(4) Observe the terms of any bona fide apprenticeship program if the program is registered with the Ohio apprenticeship council pursuant to sections ~~4111.25~~ 4139.01 to ~~4111.30~~ 4139.06 of the Revised Code and is

approved by the federal committee on apprenticeship of the United States department of labor.

(P) Nothing in this chapter prohibiting age discrimination and nothing in division (A) of section 4112.14 of the Revised Code shall be construed to prohibit the following:

(1) The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code;

(2) The mandatory retirement of uniformed patrol officers of the state highway patrol as provided in section 5505.16 of the Revised Code;

(3) The maximum age requirements for appointment as a patrol officer in the state highway patrol established by section 5503.01 of the Revised Code;

(4) The maximum age requirements established for original appointment to a police department or fire department in sections 124.41 and 124.42 of the Revised Code;

(5) Any maximum age not in conflict with federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or fire fighter;

(6) Any mandatory retirement provision not in conflict with federal law of a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and fire fighters;

(7) Until January 1, 1994, the mandatory retirement of any employee who has attained seventy years of age and who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, at an institution of higher education as defined in the "Education Amendments of 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a).

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this section, for purposes of divisions (A) to (E) of this section, a handicap does not include any physiological disorder or condition, mental or psychological disorder, or disease or condition caused by an illegal use of any controlled substance by an employee, applicant, or other person, if an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee acts on the basis of that illegal use.

(b) Division (Q)(1)(a) of this section does not apply to an employee, applicant, or other person who satisfies any of the following:

(i) The employee, applicant, or other person has successfully completed a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance, or the employee, applicant, or other

person otherwise successfully has been rehabilitated and no longer is engaging in that illegal use.

(ii) The employee, applicant, or other person is participating in a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance.

(iii) The employee, applicant, or other person is erroneously regarded as engaging in the illegal use of any controlled substance, but the employee, applicant, or other person is not engaging in that illegal use.

(2) Divisions (A) to (E) of this section do not prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following:

(a) Adopting or administering reasonable policies or procedures, including, but not limited to, testing for the illegal use of any controlled substance, that are designed to ensure that an individual described in division (Q)(1)(b)(i) or (ii) of this section no longer is engaging in the illegal use of any controlled substance;

(b) Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by all employees;

(c) Requiring that employees not be under the influence of alcohol or not be engaged in the illegal use of any controlled substance at the workplace;

(d) Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended;

(e) Holding an employee who engages in the illegal use of any controlled substance or who is an alcoholic to the same qualification standards for employment or job performance, and the same behavior, to which the employer, employment agency, personnel placement service, labor organization, or joint labor-management committee holds other employees, even if any unsatisfactory performance or behavior is related to an employee's illegal use of a controlled substance or alcoholism;

(f) Exercising other authority recognized in the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, as amended, including, but not limited to, requiring employees to comply with any applicable federal standards.

(3) For purposes of this chapter, a test to determine the illegal use of any controlled substance does not include a medical examination.

(4) Division (Q) of this section does not encourage, prohibit, or authorize, and shall not be construed as encouraging, prohibiting, or authorizing, the conduct of testing for the illegal use of any controlled

substance by employees, applicants, or other persons, or the making of employment decisions based on the results of that type of testing.

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.

(B) "Construction" means either of the following:

(1) Any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than fifty thousand dollars adjusted biennially by the ~~administrator~~ director of ~~the bureau of employment services~~ commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 1515.08 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 1515.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant

to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.

(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

(1) The basic hourly rate of pay;

(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;

(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:

(a) Medical or hospital care or insurance to provide such;

(b) Pensions on retirement or death or insurance to provide such;

(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;

(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;

(e) Life insurance;

(f) Disability and sickness insurance;

(g) Accident insurance;

(h) Vacation and holiday pay;

(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;

(j) Other bona fide fringe benefits.

None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.

(F) "Interested party," with respect to a particular public improvement, means:

(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;

(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;

(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of

negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;

(4) Any association having as members any of the persons mentioned in division (F)(1) or (2) of this section.

(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.

Sec. 4115.031. The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the ~~bureau~~ director of ~~employment services~~ commerce, insofar as Chapter 4115. of the Revised Code is concerned, may be discharged by the making of payments in cash, by the making of contributions of a type referred to in division (E)(2) of section 4115.03 of the Revised Code or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in division (E)(3) of section 4115.03 of the Revised Code, or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in division (E)(1) plus the rates referred to in ~~division~~ divisions (E)(2) and (3) of section 4115.03 of the Revised Code.

In determining the overtime pay to which the laborer or mechanic is entitled under any federal or state law, ~~his~~ the person's regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under division (E)(1) of section 4115.03 of the Revised Code, except that where the amount of payments, contributions, or costs incurred with respect to ~~him~~ that person exceeds the prevailing wage applicable to ~~him~~ the person under Chapter 4115. of the Revised Code, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to ~~him~~ the person, the amount of contributions or costs of the types described in ~~division~~ divisions (E)(2) and (3) actually incurred with respect to ~~him~~ the person, or the amount determined under ~~division~~ divisions (E)(2) and (3) of section 4115.03 of the Revised Code but not actually paid, whichever amount is the greater.

Sec. 4115.032. Construction on any project, facility, or project facility to which section 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code applies is hereby deemed to be construction of a public improvement within section 4115.03 of the Revised Code. All contractors and subcontractors working on such projects, facilities, or

project facilities shall be subject to and comply with sections 4115.03 to 4115.16 of the Revised Code, and the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall, and any interested party may, bring proceedings under such sections to enforce compliance.

The ~~bureau of employment services~~ director shall make the determination of wages as required under sections 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, and 3706.042 of the Revised Code and shall designate one of ~~its~~ the director's employees to act as the prevailing wage coordinator under section 4115.071 for any project, facility, or project facility for which a coordinator has not been designated by any public authority.

Sec. 4115.034. On January 1, 1996, and the first day of January of every even-numbered year thereafter, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall adjust the threshold levels for which public improvement projects are subject to sections 4115.03 to 4115.16 of the Revised Code as set forth in divisions (B)(1) and (2) of section 4115.03 of the Revised Code. The ~~administrator~~ director shall adjust those amounts according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of the census implicit price deflator for construction, provided that no increase or decrease for any year shall exceed three per cent of the threshold level in existence at the time of the adjustment.

Sec. 4115.04. (A) Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the ~~bureau~~ director of ~~employment services~~ commerce determine the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Revised Code for the class of work called for by the public improvement, in the locality where the work is to be performed. Such schedule of wages shall be attached to and made part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. A copy of the bidding blank shall be filed with the ~~bureau~~ director before such contract is awarded. A minimum rate of wages for common laborers, on work coming under the jurisdiction of the department of transportation, shall be fixed in each county of the state by said department of transportation, in accordance with section 4115.05 of the Revised Code.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or

any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code if none of the funds used in constructing the improvements are the proceeds of bonds or other obligations which are secured by the full faith and credit of the state, the county, a township, or a municipal corporation and none of the funds used in constructing the improvements, including funds used to repay any amounts borrowed to construct the improvements, are funds that have been appropriated for that purpose by the board of county commissioners, the state, a township, or a municipal corporation from funds generated by the levy of a tax; provided, however, that a county hospital may elect to apply sections 4115.03 to 4115.16 of the Revised Code to a public improvement undertaken by, or under contract for, the county hospital.

Sec. 4115.05. The prevailing rate of wages to be paid for a legal day's work, as prescribed in section 4115.04 of the Revised Code, to laborers, ~~workmen~~ workers, or mechanics upon public works shall not be less at any time during the life of a contract for the public work than the prevailing rate of wages then payable in the same trade or occupation in the locality where such public work is being performed, under collective bargaining agreements or understandings, between employers and bona fide organizations of labor in force at the date the contract for the public work, relating to the trade or occupation, was made, and collective bargaining agreements or understandings successor thereto.

Serving laborers, helpers, assistants and apprentices shall not be classified as common labor and shall be paid not less at any time during the life of a contract for the public work than the prevailing rate of wages then payable for such labor in the locality where the public work is being performed, under or as a result of collective bargaining agreements or

rstandings between employers and bona fide organizations of labor in force at the date the contract for the public work, requiring the employment of serving laborers, helpers, assistants, or apprentices, was made, and collective bargaining agreements or understandings successor thereto.

Apprentices will be permitted to work only under a bona fide apprenticeship program if such program exists and is registered with the Ohio apprenticeship council.

The allowable ratio of apprentices to skilled workers permitted to work shall not be greater than the ratio allowed the contractor or subcontractor in the collective bargaining agreement or understanding referred to in this section under which the work is being performed.

In the event there is no such collective bargaining agreement or understanding in the immediate locality, then the prevailing rates of wages in the nearest locality in which such collective bargaining agreements or understandings are in effect shall be the prevailing rate of wages, in such locality, for the various occupations covered by sections 4115.03 to 4115.16 of the Revised Code.

The prevailing rate of wages to be paid for a legal day's work, to laborers, ~~workmen~~ workers, or mechanics, upon any material to be used in or in connection with a public work, shall be not less than the prevailing rate of wages payable for a day's work in the same trade or occupation in the locality within the state where such public work is being performed and where the material in its final or completed form is to be situated, erected, or used.

Every contract for a public work shall contain a provision that each laborer, ~~workman~~ worker, or mechanic, employed by such contractor, subcontractor, or other person about or upon such public work, shall be paid the prevailing rate of wages provided in this section.

No contractor or subcontractor under a contract for a public work shall sublet any of the work covered by such contract unless specifically authorized to do so by the contract.

Where contracts are not awarded or construction undertaken within ninety days from the date of the establishment of the prevailing rate of wages, there shall be a redetermination of the prevailing rate of wages before the contract is awarded. Upon receipt from the ~~administrator~~ director of ~~the bureau of employment services~~ commerce of a notice of a change in prevailing wage rates, a public authority shall, within seven working days after receipt thereof, notify all affected contractors and subcontractors with whom the public authority has contracts for a public improvement of the changes and require the contractors to make the necessary adjustments in the

prevailing wage rates.

If the ~~administrator~~ director determines that a contractor or subcontractor has violated sections 4115.03 to 4115.16 of the Revised Code because the public authority has not notified the contractor or subcontractor as required by this section, the public authority is liable for any back wages, fines, damages, court costs, and ~~attorneys~~ attorney's fees associated with the enforcement of said sections by the ~~administrator~~ director for the period of time running until the public authority gives the required notice to the contractor or subcontractor.

On the occasion of the first pay date under a contract, the contractor or subcontractor shall furnish each employee not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor with individual written notification of the job classification to which the employee is assigned, the prevailing wage determined to be applicable to that classification, separated into the hourly rate of pay and the fringe payments, and the identity of the prevailing wage coordinator appointed by the public authority. The contractor or subcontractor shall furnish the same notification to each affected employee every time the job classification of the employee is changed.

Sec. 4115.07. All contractors and subcontractors required by sections 4115.03 to 4115.16 of the Revised Code, and the action of any public authority to pay not less than the prevailing rate of wages shall make full payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of any term of employment covering deductions for food, sleeping accommodations, or other similar item, provided such agreement is submitted by the employer to the public authority fixing the rate of wages and is approved by such public authority as fair and reasonable.

All contractors or subcontractors falling within or affected by sections 4115.03 to 4115.16 of the Revised Code, shall keep full and accurate payroll records with respect to wages paid each employee and the number of hours worked by each employee, covering all disbursements of wages to their employees to whom they are required to pay not less than the prevailing rate of wages. Such payroll records shall be open to inspection by any authorized representative of the contracting public authority, including the prevailing wage coordinator or the ~~bureau~~ director of ~~employment services~~ commerce at any reasonable time and as often as may be necessary, and such records shall not be destroyed or removed from the state for the period of one year

following the completion of the public improvement in connection with which the records are made. There shall be posted in a prominent and accessible place on the site of the work a legible statement of the schedule of wage rates specified in the contract to the various classifications of laborers, ~~workmen~~ workers, and mechanics employed, said statement to remain posted during the life of each contract.

Each contractor or subcontractor shall file with the contracting public authority upon completion of the public improvement and prior to final payment therefor an affidavit stating that ~~he~~ the contractor or subcontractor has fully complied with sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4115.071. (A) Each contracting public authority that enters into a contract other than a contract for printing, binding, and related services, whose contractor and subcontractors are subject to sections 4115.03 to 4115.16 of the Revised Code shall, no later than ten days before the first payment of wages is payable to any employee of any contractor or subcontractor, designate and appoint one of its own employees to serve as the prevailing wage coordinator during the life of the contract. The duties of the coordinator shall include:

(1) Setting up and maintaining, available for public inspection including inspection by interested parties or affected employees, files of payroll reports and affidavits submitted by contractors and subcontractors pursuant to sections 4115.03 to 4115.16 of the Revised Code;

(2) Ascertaining from each contractor or subcontractor, at the beginning of performance under the contract, the dates during its life when payments of wages to employees are to be made;

(3) Receiving from each contractor or subcontractor, a copy of ~~his~~ the contractor's or subcontractor's complete payroll for each date exhibiting for each employee paid any wages, ~~his~~ the employee's name, current address, social security number, number of hours worked each day during the pay period and the total for each week, ~~his~~ the employee's hourly rate of pay, ~~his~~ the employee's job classification, fringe payments, and deductions from ~~his~~ the employee's wages;

(4) Establishing and following procedures to monitor the compliance by each contractor and subcontractor with the requirement imposed by this section for timely filing of copies of payroll records;

(5) Receiving from each contractor or subcontractor upon completion of the public improvement and prior to final payment therefor the affidavit required by section 4115.07 of the Revised Code;

(6) Reporting any delinquency in the filing of the certified copy of the payroll and the affidavit to the chief officer of the contracting public

ty and the ~~administrator~~ director of ~~the bureau of employment services~~ commerce.

(B) Any contracting public authority having a permanent employee with the title, powers, and functions described in division (A) of this section for the prevailing wage coordinator need not separately designate and appoint an employee for each public work contract entered into by the contracting public authority.

(C) Every contractor and subcontractor who is subject to sections 4115.03 to 4115.16 of the Revised Code shall, ~~as soon as he begins~~ upon beginning performance under ~~his~~ the contractor's or subcontractor's contract with any contracting public authority, supply to the prevailing wage coordinator of the contracting public authority a schedule of the dates during the life of ~~his~~ the contract with the authority on which ~~he~~ the contractor or subcontractor is required to pay wages to employees. ~~He~~ The contractor or subcontractor shall also deliver to the prevailing wage coordinator a certified copy of ~~his~~ the contractor's or subcontractor's payroll, within two weeks after the initial pay date, and supplemental reports for each month thereafter which shall exhibit for each employee paid any wages, ~~his~~ the employee's name, current address, social security number, number of hours worked during each day of the pay periods covered and the total for each week, ~~his~~ the employee's hourly rate of pay, ~~his~~ the employee's job classification, fringe payments, and deductions from ~~his~~ the employee's wages. If the life of the contract is expected to be no more than four months from the beginning of performance by the contractor or subcontractor, such supplemental reports shall be filed each week after the initial report. The certification of each payroll shall be executed by the contractor, subcontractor, or duly appointed agent thereof and shall recite that the payroll is correct and complete and that the wage rates shown are not less than those required by the contract.

(D) If it is found that a public authority or prevailing wage coordinator has not complied with this section, the ~~administrator~~ director shall give notice thereof in writing to the public authority or prevailing wage coordinator. Sufficient time shall be allowed for compliance as the ~~administrator~~ director deems necessary. At the expiration of the time prescribed in the notice, the ~~administrator~~ director shall, in writing, inform the attorney general of the fact that notice has been given and that the public authority or prevailing wage coordinator to whom it was directed has not complied with it. On receipt thereof, the attorney general shall bring suit in the name of the state in the court of common pleas of the county in which the public authority is located, to require the public authority or prevailing

wage coordinator to comply with this section.

Sec. 4115.08. No public official, authorized to contract for or construct with ~~his~~ the official's own forces a public improvement, shall fail, before advertising for bids or undertaking such construction with ~~his own~~ those forces, to have the ~~bureau~~ director of ~~employment services~~ commerce determine the prevailing rates of wages of mechanics and laborers for the class of work called for by the public improvement in the locality where the work is to be performed, as provided in section 4115.04 of the Revised Code.

Sec. 4115.09. No member of a public board, commission, or other public authority authorized to contract for or construct with its own forces a public improvement, shall vote for the award of any contract for the construction of such improvement, or vote for the disbursement of any funds on account of the construction of such public improvement, unless such public authority has first had the ~~bureau~~ director of ~~employment services~~ commerce determine the prevailing rates of wages of mechanics and laborers for the class of work called for by such public improvement in the locality where the work is to be performed, as provided in section 4115.04 of the Revised Code.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B)(1) or (2) of section 4115.03 of the Revised Code, adjusted biennially by the ~~administrator~~ director of ~~employment services~~ commerce pursuant to section 4115.034 of the Revised Code, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the ~~administrator~~ director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The ~~administrator~~ director shall deposit all moneys received from penalties

paid to the ~~administrator~~ director pursuant to this section into the penalty enforcement fund, which is hereby created. The penalty enforcement fund shall be in the custody of the treasurer of state but shall not be part of the state treasury. The ~~administrator~~ director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within sixty days of the ~~administrator's~~ director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than the prevailing rate of wages applicable thereto may file a complaint in writing with the ~~bureau of employment services~~ director upon a form furnished by the ~~administrator~~ director. At the written request of any employee paid less than the prevailing rate of wages applicable, the ~~administrator~~ director shall take an assignment of a claim in trust for the assigning employee and bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court if the employer is found in violation of sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the Revised Code, the ~~administrator~~ director determines there is a violation of sections 4115.03 to 4115.16 of the Revised Code and a period of sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of this section;

(2) No employee has requested that the ~~administrator~~ director take an assignment of a wage claim pursuant to division (B) of this section;

The ~~administrator~~ director shall bring any legal action necessary to collect any amounts owed to employees and the bureau. The ~~administrator~~ director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the ~~administrator~~ director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement, representation,

or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(E) The ~~bureau~~ director shall enforce sections 4115.03 to 4115.16 of the Revised Code.

(F) For the purpose of supplementing existing ~~bureau~~ resources and to assist in enforcing division (E) of this section, the ~~administrator~~ director may contract with a person registered as a public accountant under Chapter 4701. of the Revised Code to conduct an audit of a person, firm, corporation, or public authority.

Sec. 4115.101. There is hereby created the prevailing wage custodial fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The ~~administrator of the bureau~~ director of ~~employment services~~ commerce shall deposit to the fund all money paid by employers to the ~~administrator~~ director that are held in trust for employees to whom prevailing wages are due and owing. The ~~administrator~~ director shall make disbursements from the fund in accordance with this chapter to employees affected by violations of this chapter.

Sec. 4115.12. In order to facilitate the administration of sections 4115.03 to 4115.16 of the Revised Code, and to achieve the purposes of those sections, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce may adopt reasonable rules, not inconsistent with those sections, for contractors and subcontractors engaged in the construction, prosecution, completion, or repair of a public improvement financed in whole or in part by any public authority.

Sec. 4115.13. (A) Upon ~~his~~ the director's own motion or within five days of the filing of a complaint under section 4115.10 or 4115.16 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce, or a representative designated by ~~him~~ the director, shall investigate any alleged violation of sections 4115.03 to 4115.16 of the Revised Code.

(B) At the conclusion of the investigation, the ~~administrator~~ director or ~~his~~ a designated representative shall make a recommendation as to whether the alleged violation was committed. If the ~~administrator~~ director or ~~his~~ designated representative recommends that the alleged violation was an intentional violation, ~~he~~ the director or designated representative shall give written notice by certified mail of that recommendation to the contractor,

subcontractor, or officer of the contractor or subcontractor which also shall state that the contractor, subcontractor, or officer of the contractor or subcontractor may file with the ~~bureau of employment services~~ director an appeal of the recommendation within thirty days after the date the notice was received. If the contractor, subcontractor, or officer of the contractor or subcontractor timely appeals the recommendation, within sixty days of the filing of the appeal, the ~~administrator~~ director or ~~his~~ designated representative shall schedule the appeal for a hearing. If the contractor, subcontractor, or officer of the contractor or subcontractor fails to timely appeal the recommendation, the ~~administrator~~ director or ~~his~~ designated representative shall adopt the recommendation as a finding of fact for purposes of division (D) of this section. The ~~administrator~~ director or ~~his~~ designated representative, in the performance of any duty or execution of any power prescribed by sections 4115.03 to 4115.16 of the Revised Code, ~~shall have the power to~~ may hold hearings, and such hearings shall be held within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed, or in Franklin county, whichever county the person alleged to have committed the violation chooses. For the purpose of the hearing, the ~~administrator~~ director may designate a hearing examiner who shall, after notice to all interested parties, conduct a hearing and make findings of fact and recommendations to the ~~administrator~~ director. The ~~administrator~~ director shall make a decision, which shall be sent to the affected parties. The ~~administrator~~ director or ~~his~~ designated representative may make decisions, based upon findings of fact, as are found necessary to enforce sections 4115.03 to 4115.16 of the Revised Code.

(C) If any underpayment by a contractor or subcontractor was the result of a misinterpretation of the statute, or an erroneous preparation of the payroll documents, the ~~administrator~~ director or ~~his~~ designated representative may make a decision ordering the employer to make restitution to the employees, or on their behalf, the plans, funds, or programs for any type of fringe benefits described in the applicable wage determination. In accordance with the finding of the ~~administrator~~ director that any underpayment was the result of a misinterpretation of the statute, or an erroneous preparation of the payroll documents, employers who make restitution are not subject to any further proceedings pursuant to sections 4115.03 to 4115.16 of the Revised Code.

(D) If the ~~administrator~~ director or ~~his~~ designated representative makes a decision, based upon findings of fact, that a contractor, subcontractor, or officer of a contractor or subcontractor has intentionally violated sections

4115.03 to 4115.16 of the Revised Code, the contractor, subcontractor, or officer of a contractor or subcontractor is prohibited from contracting directly or indirectly with any public authority for the construction of a public improvement or from performing any work on the same as provided in section 4115.133 of the Revised Code. A contractor, subcontractor, or officer of a contractor or subcontractor may appeal the decision, within sixty days after the decision, to the court of common pleas of the county in which the first hearing involving the violation was heard. If the contractor, subcontractor, or officer of a contractor or subcontractor does not timely appeal the recommendation of the ~~administrator~~ director or ~~his~~ designated representative under division (B) of this section, the contractor, subcontractor, or officer of a contractor or subcontractor may appeal the findings of fact, within sixty days after the recommendations are adopted as findings of fact, to the court of common pleas within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed or in Franklin county, whichever county the person alleged to have committed the violation chooses.

(E) No appeal to the court from the decision of the ~~administrator~~ director may be had by the contractor or subcontractor unless the contractor or subcontractor files a bond with the court in the amount of the restitution, conditioned upon payment should the decision of the ~~administrator~~ director be upheld.

(F) No statement of a contractor, subcontractor, or officer of a contractor or subcontractor and no recommendation or finding of fact issued under this section is admissible as evidence in a criminal action brought under this chapter against the contractor, subcontractor, or officer of a contractor or subcontractor.

(G) In determining whether a contractor, subcontractor, or officer of a contractor or subcontractor intentionally violated sections 4115.03 to 4115.16 of the Revised Code, the ~~administrator~~ director may consider as evidence either of the following:

(1) The fact that the ~~bureau~~ director, prior to the commission of the violation under consideration, issued notification to the contractor, subcontractor, or officer of a contractor or subcontractor of the same or a similar violation, provided that the commission of the same or a similar violation of sections 4115.03 to 4115.16 of the Revised Code at a subsequent time does not create a presumption that the subsequent violation was intentional;

(2) The fact that, prior to the commission of the violation, the contractor, subcontractor, or officer of a contractor or subcontractor used

reasonable efforts to ascertain the correct interpretation of sections 4115.03 to 4115.16 of the Revised Code from the ~~administrator~~ director or ~~his~~ designated representative or the public authority pursuant to section 4115.04 or 4115.131 of the Revised Code, provided that a violation is presumed not to be intentional where a contractor, subcontractor, or officer of a contractor or subcontractor complies with a decision the ~~administrator~~ director or ~~his~~ designated representative issues pursuant to a request made under section 4115.131 of the Revised Code.

(H) As used in this section, "intentional violation" means a willful, knowing, or deliberate failure to comply with any provision of sections 4115.03 to 4115.16 of the Revised Code, and includes, but is not limited to, the following actions when conducted in the manner described in this division:

(1) An intentional failure to submit reports as required under division (C) of section 4115.071 of the Revised Code or knowingly submitting false or erroneous reports;

(2) An intentional misclassification of employees for the purpose of reducing wages;

(3) An intentional misclassification of employees as independent contractors or as apprentices;

(4) An intentional failure to pay the prevailing wage;

(5) An intentional failure to comply with the allowable ratio of apprentices to skilled workers as required under section 4115.05 of the Revised Code and by rules adopted by the ~~bureau~~ director pursuant to section 4115.12 of the Revised Code;

(6) Intentionally allowing an officer of a contractor or subcontractor who is known to be prohibited from contracting directly or indirectly with a public authority for the construction of a public improvement or from performing any work on the same pursuant to section 4115.133 of the Revised Code to perform work on a public improvement.

Sec. 4115.131. In the event of a specific contract dispute concerning a prevailing wage determination, a proper wage classification, or a novel or unusual situation pertaining to sections 4115.03 to 4115.16 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce may, upon request by a public authority or by a person having a contract with a public authority, cause to be made such investigation and hearing as the ~~administrator~~ director deems necessary and render a decision embodying the ~~administrator's~~ director's findings and conclusions. Unless finally reversed on appeal to the courts, the decision of the ~~administrator~~ director shall form the basis for decision of any complaint on the same facts

filed pursuant to sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4115.132. In any investigation undertaken by the ~~administrator~~ director of ~~the bureau of employment services~~ commerce pursuant to sections 4115.03 to 4115.16 of the Revised Code, the ~~administrator~~ director, a designated representative, or hearing examiner may administer oaths, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, and testimony relating to and relevant to the violation under investigation. In case of contumacy, failure, or refusal of any person, contractor, or subcontractor to obey the order, any court of common pleas having jurisdiction of the person, contractor, or subcontractor, upon application of the ~~administrator~~ director or representative designated by ~~him~~ the director shall have jurisdiction to issue to the person, contractor, or subcontractor an order requiring the person, contractor, or subcontractor to appear before ~~him~~ the director or a representative designated by ~~him~~ the director, to produce evidence as is ordered, and to give testimony relating to the matter under investigation or in question. Any failure to obey an order of the court may be punished by the court as a contempt thereof.

Sec. 4115.133. (A) The ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall file with the secretary of state a list of contractors, subcontractors, and officers of contractors and subcontractors who have been prosecuted and convicted for violations of or have been found to have intentionally violated sections 4115.03 to 4115.16 of the Revised Code. The ~~administrator~~ director shall not include on the list a contractor, subcontractor, or officer of a contractor or subcontractor until the expiration of any applicable appeal period relative to the finding, or if appealed, until the date of the final judgment of a court.

(B) Each contractor, subcontractor, or officer of a contractor or subcontractor who has been prosecuted and convicted for violations of or is found to have intentionally violated sections 4115.03 to 4115.16 of the Revised Code is prohibited from contracting directly or indirectly with any public authority for the construction of a public improvement or from performing any work on the same as a contractor, subcontractor, or officer of a contractor or subcontractor for a period of one year from the date of the expiration of the applicable period for filing an appeal, or if appealed, from the date of the final judgment of a court. If the contractor, subcontractor, or officer of a contractor or subcontractor is found to have intentionally violated sections 4115.03 to 4115.16 of the Revised Code another time within five years after the date specified under division (B) of this section, the contractor, subcontractor, or officer of a contractor or subcontractor is

prohibited from so contracting or performing work for a period of three years from the date of the expiration of the applicable period for filing an appeal, or if appealed, from the date of the final judgment of a court.

(C) No public authority shall award a contract for a public improvement to any contractor, subcontractor, or officer of a contractor or subcontractor during the time that the contractor's, subcontractor's, or officer's name appears on such list. The filing of the notice of conviction or of the finding with the secretary of state constitutes notice to all public authorities.

Sec. 4115.14. If it is found that a person, public authority, or prevailing wage coordinator has not complied with sections 4115.03 to 4115.16 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall give notice thereof in writing to such person or public authority pursuant to section 4115.15 of the Revised Code. Sufficient time shall be allowed for compliance therewith as the ~~administrator~~ director deems necessary not to exceed thirty days from the date of notice.

At the expiration of the time prescribed in such notice, the ~~administrator~~ director shall in writing inform the attorney general of the fact that such notice has been given and that the person, public authority, or prevailing wage coordinator to whom it was directed has not complied with such notice. On receipt thereof, the attorney general shall bring suit in the name of the state in the court of common pleas of the county in which such person, public authority, or prevailing wage coordinator is located to enjoin the awarding of such contract for a public improvement or if the contract has already been awarded to enjoin further work under the contract until the requirements of such notice are complied with.

The court may issue a temporary restraining order without notice to the defendant in such action. Upon final hearing thereof, if the court is satisfied that the requirements of the notice by the ~~administrator~~ director to the defendant was not unreasonable or arbitrary, it shall issue an order enjoining the defendant from awarding such contract for a public improvement or continuing work under the contract until the notice is complied with.

Such injunctions shall continue operative until the court is satisfied that the requirements of such notice have been complied with and the court shall have and exercise with respect to the enforcement of such injunctions all the power invested in it in other similar cases.

Both the plaintiff and defendant in such action have the same rights of appeal as are provided by law in other injunction cases.

Sec. 4115.15. Where an investigation by the ~~bureau~~ director of ~~employment services~~ commerce reveals that a contractor or subcontractor has failed to pay the prevailing rate of wages, the contracting public

rity or the ~~administrator of the bureau of employment services~~ director may, upon written notice to the contractor or subcontractor and the sureties of the contractor or subcontractor, and after hearing held pursuant to section 4115.13 of the Revised Code, order work halted on the part of the contract for which less than the prevailing rate of wages has been paid, until the defaulting contractor has filed with the ~~bureau~~ director a bond in an amount of such penal sum as the ~~bureau~~ director shall set, conditioned upon payment of the prevailing rate of wages.

Sec. 4115.16. (A) An interested party may file a complaint with the ~~administrator~~ director of ~~the bureau of employment services~~ commerce alleging a violation of sections 4115.03 to 4115.16 of the Revised Code. The ~~administrator~~ director, upon receipt of a complaint, shall investigate pursuant to section 4115.13 of the Revised Code. If the ~~administrator~~ director determines that no violation has occurred or that the violation was not intentional, the interested party may appeal the decision to the court of common pleas of the county where the violation is alleged to have occurred.

(B) If the ~~administrator~~ director has not ruled on the merits of the complaint within sixty days after its filing, the interested party may file a complaint in the court of common pleas of the county in which the violation is alleged to have occurred. The complaint may make the contracting public authority a party to the action, but not the ~~administrator~~ director. Contemporaneous with service of the complaint, the interested party shall deliver a copy of the complaint to the ~~administrator~~ director. Upon receipt thereof, the ~~administrator~~ director shall cease investigating or otherwise acting upon the complaint filed ~~with him~~ pursuant to division (A) of this section. The court in which the complaint is filed pursuant to this division shall hear and decide the case, and upon finding that a violation has occurred, shall make such orders as will prevent further violation and afford to injured persons the relief specified under sections 4115.03 to 4115.16 of the Revised Code. The court's finding that a violation has occurred shall have the same consequences as a like determination by the ~~administrator~~ director. The court may order the ~~administrator~~ director to take such action as will prevent further violation and afford to injured persons the remedies specified under sections 4115.03 to 4115.16 of the Revised Code. Upon receipt of any order of the court pursuant to this section, the ~~administrator~~ director shall undertake enforcement action without further investigation or hearings.

(C) The ~~administrator~~ director shall make available to the parties to any appeal or action pursuant to this section all files, documents, affidavits, or other information in the ~~administrator's~~ director's possession that ~~pertains~~

pertain to the matter. The rules generally applicable to civil actions in the courts of this state shall govern all appeals or actions under this section. Any determination of a court under this section is subject to appellate review.

(D) Where, pursuant to this section, a court finds a violation of sections 4115.03 to 4115.16 of the Revised Code, the court shall award attorney fees and court costs to the prevailing party. In the event the court finds that no violation has occurred, the court may award court costs and attorney fees to the prevailing party, other than to the ~~bureau of employment services~~ director or the public authority, where the court finds the action brought was unreasonable or without foundation, even though not brought in subjective bad faith.

Sec. 4115.32. (A) There is hereby created the state committee for the purchase of products and services provided by persons with severe disabilities. The committee shall be composed ex officio of the following persons, or their designees:

(1) The directors of administrative services, mental health, mental retardation and developmental disabilities, transportation, ~~and~~ natural resources, and commerce;

(2) The administrators of the rehabilitation services commission~~, the bureau of employment services,~~ and the bureau of workers' compensation;

(3) The secretary of state;

(4) One representative of a purchasing department of a political subdivision who is designated by the governor.

The governor shall appoint two representatives of a qualified nonprofit agency for persons with severe disabilities, and a person with a severe disability to the committee.

(B) Within thirty days after ~~the effective date of this amendment~~ September 29, 1995, the governor shall appoint the representatives of a qualified nonprofit agency for persons with severe disabilities to the committee for a term ending August 31, 1996. Thereafter, terms for such representatives are for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each committee member shall serve from the date of the member's appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve as a member for the remainder of that term. A member shall serve subsequent to the expiration of the member's term and shall continue to serve until the member's successor takes office.

(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section, members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.

(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.

(2) No member of the committee who is entitled to receive reimbursement for the performance of services for the committee from another agency or entity shall receive reimbursement from the committee.

(D) The committee shall elect from among its members a chairperson. The committee may request from any agency of the state, political subdivision, or instrumentality of the state any information necessary to enable it to carry out the intent of sections 4115.31 to 4115.35 of the Revised Code. Upon request of the committee, the agency, subdivision, or instrumentality shall furnish the information to the chairperson of the committee.

(E) The committee shall not later than one hundred eighty days following the close of each fiscal year transmit to the governor, the general assembly, and each qualified nonprofit agency for persons with severe disabilities a report that includes the names of the committee members serving during the preceding fiscal year, the dates of committee meetings in that year, and any recommendations for changes in sections 4115.31 to 4115.35 of the Revised Code that the committee determines are necessary.

(F) The director of mental retardation and developmental disabilities shall designate a subordinate to act as executive director of the committee and shall furnish other staff and clerical assistance, office space, and supplies required by the committee.

Sec. 4121.69. (A) The administrator of workers' compensation may establish compensation plans, including schedules of hourly rates, for the compensation of professional, administrative, and managerial employees who are employed to fulfill the duties placed upon the bureau of workers' compensation pursuant to sections 4121.61 to 4121.69 of the Revised Code. The administrator may establish rules or policies for the administration of the respective compensation plans.

This division does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code.

(B) The administrator may employ the services and resources of any public entity or private person, business, or association in fulfilling the

duties placed upon the bureau of workers' compensation by sections 4121.61 to 4121.69 of the Revised Code. The rehabilitation services commission, the ~~bureau~~ director of ~~employment~~ job and family services, and any other public officer, employee, or agency shall give to the bureau of workers' compensation full cooperation and, at the request of the administrator, enter into a written agreement stating the procedures and criteria for referring, accepting, and providing services to claimants in the job placement and rehabilitation efforts of the bureau of workers' compensation on behalf of a claimant when referred by the bureau of workers' compensation.

(C) In appropriate cases, the bureau may refer a candidate to the rehabilitation services commission for participation in a program of the commission. For that purpose, the bureau of workers' compensation shall compensate the commission for the nonfederal portion of its services.

Sec. 4123.038. As used in this section and section 4123.039 of the Revised Code:

(A) "Apprentice" and "apprenticeship agreement" have the meaning defined in section 4111.25 of the Revised Code.

(B) "Related and supplemental instructions" means training offered, conducted, supervised, or given under the sponsorship of any joint apprenticeship committee or other sponsoring organization to apprentices, which training is given in addition to the approved schedule of work experience through employment, and which is to be credited towards the minimum hours of related and supplemental instructions required by section ~~4111.25~~ 4139.01 of the Revised Code.

(C) "Pre-apprentice" means a person who receives formal classroom training designed to provide ~~him~~ the person with the basic education, attitudes, skills, trade knowledge, and motivation necessary to enter a formal apprenticeship program.

(D) "Entry-level trainee" means a person who possesses experience that would qualify ~~him~~ the person as a ~~journeyman~~ journeyperson but for the existence of certain other disqualifying conditions and who receives on-the-job training accompanied by classroom instruction outside of normal working hours.

(E) "~~Journeyman~~ Journeyperson trainee" means a person with ~~journeyman~~ journeyperson status in a given trade who receives classroom and laboratory training for the purpose of broadening ~~his~~ the person's skills and acquainting ~~him~~ the person with new techniques and ideas in the trade.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in

pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by ~~him~~ the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of ~~human~~ job and family services or to the county director of ~~human~~ job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of ~~human~~ job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The

administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency assistance provided under Chapter 5108. of the Revised Code, or disability assistance provided under Chapter 5115. of the Revised Code.

Sec. 4123.56. (A) Except as provided in division (D) of this section, in the case of temporary disability, an employee shall receive sixty-six and two-thirds per cent of ~~his~~ the employee's average weekly wage so long as such disability is total, not to exceed a maximum amount of weekly compensation which is equal to the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, and not less than a minimum amount of compensation which is equal to thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code unless the employee's wage is less than thirty-three and one-third per cent of the minimum statewide average weekly wage, in which event ~~he~~ the employee shall receive compensation equal to ~~his~~ the employee's full wages; provided that for the first twelve weeks of total disability the employee shall receive seventy-two per cent of ~~his~~ the employee's full weekly wage, but not to exceed a maximum amount of weekly compensation which is equal to the lesser of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code or one hundred per cent of the employee's net take-home weekly wage. In the case of a self-insuring employer, payments shall be for a duration based upon the medical reports of the attending physician. If the employer disputes the attending physician's report, payments may be terminated only upon application and hearing by a district hearing officer pursuant to division (C) of section 4123.511 of the Revised Code. Payments shall continue pending the determination of the matter, however payment shall not be made for the period when any employee has returned to work, when an employee's treating physician has made a written statement that the employee is capable of returning to ~~his~~ the employee's former position of employment, when work within the physical capabilities of the employee is made available by the employer or another

employer, or when the employee has reached the maximum medical improvement. Where the employee is capable of work activity, but ~~his~~ the employee's employer is unable to offer ~~him~~ the employee any employment, the employee shall register with the ~~bureau~~ director of ~~employment~~ job and family services, ~~which~~ who shall assist the employee in finding suitable employment. The termination of temporary total disability, whether by order or otherwise, does not preclude the commencement of temporary total disability at another point in time if the employee again becomes temporarily totally disabled.

After two hundred weeks of temporary total disability benefits, the ~~bureau~~ medical section of the bureau of workers' compensation shall schedule the claimant for an examination for an evaluation to determine whether or not the temporary disability has become permanent. A self-insuring employer shall notify the bureau ~~of workers' compensation~~ immediately after payment of two hundred weeks of temporary total disability and request that the bureau ~~of workers' compensation~~ schedule the claimant for such an examination.

When the employee is awarded compensation for temporary total disability for a period for which ~~he~~ the employee has received benefits under Chapter 4141. of the Revised Code, the bureau ~~of workers' compensation~~ shall pay an amount equal to the amount received from the award to the ~~bureau~~ director of ~~employment~~ job and family services and the ~~administrator of employment services~~ director shall credit the amount to the accounts of the employers to whose accounts the payment of benefits was charged or is chargeable to the extent it was charged or is chargeable.

If any compensation under this section has been paid for the same period or periods for which temporary nonoccupational accident and sickness insurance is or has been paid pursuant to an insurance policy or program to which the employer has made the entire contribution or payment for providing insurance or under a nonoccupational accident and sickness program fully funded by the employer, compensation paid under this section for the period or periods shall be paid only to the extent by which the payment or payments exceeds the amount of the nonoccupational insurance or program paid or payable. Offset of the compensation shall be made only upon the prior order of the bureau ~~of workers' compensation~~ or industrial commission or agreement of the claimant.

As used in this division, "net take-home weekly wage" means the amount obtained by dividing an employee's total remuneration, as defined in section 4141.01 of the Revised Code, paid to or earned by the employee during the first four of the last five completed calendar quarters which

immediately precede the first day of the employee's entitlement to benefits under this division, by the number of weeks during which the employee was paid or earned remuneration during those four quarters, less the amount of local, state, and federal income taxes deducted for each such week.

(B) Where an employee in a claim allowed under this chapter suffers a wage loss as a result of returning to employment other than ~~his~~ the employee's former position of employment or as a result of being unable to find employment consistent with the claimant's physical capabilities, ~~he~~ the employee shall receive compensation at sixty-six and two-thirds per cent of ~~his~~ the employee's weekly wage loss not to exceed the statewide average weekly wage for a period not to exceed two hundred weeks.

(C) In the event an employee of a professional sports franchise domiciled in this state is disabled as the result of an injury or occupational disease, the total amount of payments made under a contract of hire or collective bargaining agreement to the employee during a period of disability is deemed an advanced payment of compensation payable under sections 4123.56 to 4123.58 of the Revised Code. The employer shall be reimbursed the total amount of the advanced payments out of any award of compensation made pursuant to sections 4123.56 to 4123.58 of the Revised Code.

(D) If an employee receives temporary total disability benefits pursuant to division (A) of this section and social security retirement benefits pursuant to the "Social Security Act," the weekly benefit amount under division (A) of this section shall not exceed sixty-six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code.

Sec. 4123.62. (A) If it is established that an injured or disabled employee was of such age and experience when injured or disabled as that under natural conditions ~~his~~ an injured or disabled employee's wages would be expected to increase, the administrator of workers' compensation may consider that fact in arriving at ~~his~~ an injured or disabled employee's average weekly wage.

(B) On each first day of January, the current maximum monthly benefit amounts provided in sections 4123.412, 4123.413, and 4123.414 of the Revised Code in injury cases shall be adjusted based on the United States department of labor's national consumer price index. The percentage increase in the cost of living using the index figure for the first day of September of the preceding year and the first day of September of the year preceding that year shall be applied to the maximums in effect on the preceding thirty-first day of December to obtain the increase in the cost of

living during that year.

In determining the increase in the maximum benefits for any year after 1972, the base shall be the national consumer price index on the first day of September of the preceding year. The increase in the index for the applicable twelve-month period shall be determined and shall be divided by the base used. The resulting percentage shall be applied to the existing maximums to arrive at the new maximums.

(C) Effective January 1, 1974, and each first day of January thereafter, the current maximum weekly benefit amounts provided in sections 4123.56, 4123.58, and 4123.59, and division (B) of section 4123.57 of the Revised Code shall be adjusted based on the increase or decrease in the statewide average weekly wage.

"Statewide average weekly wage" means the average weekly earnings of all workers in Ohio employment subject to Chapter 4141. of the Revised Code as determined as of the first day of September for the four full calendar quarters preceding the first day of July of each year, by the ~~administrator~~ director of ~~the bureau of employment~~ job and family services.

The statewide average weekly wage to be used for the determination of compensation for any employee who sustains an injury, or death, or who contracts an occupational disease during the subsequent calendar year beginning with the first day of January, shall be the statewide average weekly wage so determined as of the prior first day of September adjusted to the next higher even multiple of one dollar.

Any change in benefit amounts is effective with respect to injuries sustained, occupational diseases contracted, and deaths occurring during the calendar year for which adjustment is made.

In determining the change in the maximum benefits for any year after 1978, the base shall be the statewide average weekly wage on the first day of September of the preceding year.

Sec. ~~4111.25~~ 4139.01. As used in sections ~~4111.25~~ 4139.01 to ~~4111.30~~ 4139.06 of the Revised Code:

(A) "Apprentice" means a person at least sixteen years of age who is covered by an apprenticeship agreement.

(B) "Apprenticeship agreement" means a written agreement, registered with the Ohio state apprenticeship council, providing for not less than two thousand hours of reasonably continuous employment, and for participation in an approved schedule of work experience through employment, which shall be supplemented by a minimum of one hundred forty-four hours per year of related and supplemental instructions.

Sec. ~~4111.26~~ 4139.02. There is hereby established in the ~~bureau~~

tment of ~~employment~~ job and family services an apprenticeship council consisting of nine members and selected by the ~~administrator of the bureau~~ director of ~~employment~~ job and family services as follows: three of the appointees to such council shall be individuals who, by reason of their previous vocation, employment, or affiliations, can be classified as representatives of employees; three of the appointees to such council shall be individuals who, by reason of their previous vocation, employment, or affiliations, can be classified as representatives of employers; and three of the appointees to such council shall be individuals who, by reason of their previous vocation, employment, or affiliations, can be classified as representatives of the public and shall not be directly concerned with any industrial employer or group of employees. The members of the council shall serve at the pleasure of the ~~administrator~~ director, and shall serve without compensation but shall be paid their necessary expenses which are incurred in the discharge of their official duties.

Sec. ~~4111.27~~ 4139.03. The apprenticeship council may establish minimum standards for apprenticeship programs and may formulate policies and issue rules as may be necessary to carry out the purpose of sections ~~4111.26~~ 4139.01 to ~~4111.30~~ 4139.06 of the Revised Code. The council shall determine the date and place of its meetings and shall prescribe its own rules of procedure.

Sec. ~~4111.28~~ 4139.04. The ~~administrator of the bureau~~ director of ~~employment~~ job and family services shall appoint the executive secretary of the apprenticeship council, which appointment shall be subject to confirmation by a majority vote of the council. The ~~administrator~~ director shall appoint such additional personnel as may be necessary, subject to Chapter 124. of the Revised Code.

Sec. ~~4111.29~~ 4139.05. The executive secretary of the apprenticeship council has the following duties:

(A) Encourage the voluntary participation of employers and employees in the furtherance of the objective of sections ~~4111.25~~ 4139.01 to ~~4111.30~~ 4139.06 of the Revised Code;

(B) Register any apprenticeship programs and agreements that meet the minimum standards established by the council;

(C) Terminate or cancel on the authority of the council any registered apprenticeship programs and agreements not in accordance with the provisions of such standards;

(D) Keep a record of apprenticeship programs and their disposition;

(E) Issue certificate of completion of apprenticeship in accordance with the council's standards;

(F) Devise all necessary procedures and records;

(G) Prepare statistical reports regarding apprenticeship training;

(H) Issue information related to apprenticeship;

(I) Perform such other duties as the council may direct.

Sec. ~~4111.30~~ 4139.06. Participation in apprenticeship programs by persons, firms, political subdivisions, corporations, employer associations, or organizations of employees shall be entirely on a voluntary basis and apply only to those who elect to subscribe to the standards and procedure established under sections ~~4111.25~~ 4139.01 to ~~4111.30~~ 4139.06 of the Revised Code.

Sec. 4141.01. As used in this chapter, unless the context otherwise requires:

(A)(1) "Employer" means the state, its instrumentalities, its political subdivisions and their instrumentalities, and any individual or type of organization including any partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the successor thereof, or the legal representative of a deceased person who subsequent to December 31, 1971, or in the case of political subdivisions or their instrumentalities, subsequent to December 31, 1973:

(a) Had in employment at least one individual, or in the case of a nonprofit organization, subsequent to December 31, 1973, had not less than four individuals in employment for some portion of a day in each of twenty different calendar weeks, in either the current or the preceding calendar year whether or not the same individual was in employment in each such day; or

(b) Except for a nonprofit organization, had paid for service in employment wages of fifteen hundred dollars or more in any calendar quarter in either the current or preceding calendar year; or

(c) Had paid, subsequent to December 31, 1977, for employment in domestic service in a local college club, or local chapter of a college fraternity or sorority, cash remuneration of one thousand dollars or more in any calendar quarter in the current calendar year or the preceding calendar year, or had paid subsequent to December 31, 1977, for employment in domestic service in a private home cash remuneration of one thousand dollars in any calendar quarter in the current calendar year or the preceding calendar year:

(i) For the purposes of divisions (A)(1)(a) and (b) of this section, there shall not be taken into account any wages paid to, or employment of, an individual performing domestic service as described in this division.

(ii) An employer under this division shall not be an employer with respect to wages paid for any services other than domestic service unless the employer is also found to be an employer under division (A)(1)(a), (b), or (d) of this section.

(d) As a farm operator or a crew leader subsequent to December 31, 1977, had in employment individuals in agricultural labor; and

(i) During any calendar quarter in the current calendar year or the preceding calendar year, paid cash remuneration of twenty thousand dollars or more for the agricultural labor; or

(ii) Had at least ten individuals in employment in agricultural labor, not including agricultural workers who are aliens admitted to the United States to perform agricultural labor pursuant to sections 214(e) and 101(a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101(a)(15)(H)(ii)(a), for some portion of a day in each of the twenty different calendar weeks, in either the current or preceding calendar year whether or not the same individual was in employment in each day; or

(e) Is not otherwise an employer as defined under division (A)(1)(a) or (b) of this section; and

(i) For which, within either the current or preceding calendar year, service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, is or was performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(ii) Which, as a condition for approval of this chapter for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is required, pursuant to such act to be an employer under this chapter; or

(iii) Who became an employer by election under division (A)(4) or (5) of this section and for the duration of such election; or

(f) In the case of the state, its instrumentalities, its political subdivisions, and their instrumentalities, had in employment, as defined in division (B)(2)(a) of this section, at least one individual;

(g) For the purposes of division (A)(1)(a) of this section, if any week includes both the thirty-first day of December and the first day of January, the days of that week before the first day of January shall be considered one calendar week and the days beginning the first day of January another week.

(2) Each individual employed to perform or to assist in performing the work of any agent or employee of an employer is employed by such employer for all the purposes of this chapter, whether such individual was hired or paid directly by such employer or by such agent or employee,

provided the employer had actual or constructive knowledge of the work. All individuals performing services for an employer of any person in this state who maintains two or more establishments within this state are employed by a single employer for the purposes of this chapter.

(3) An employer subject to this chapter within any calendar year is subject to this chapter during the whole of such year and during the next succeeding calendar year.

(4) An employer not otherwise subject to this chapter who files with the ~~administrator~~ director of ~~the bureau of employment~~ job and family services a written election to become an employer subject to this chapter for not less than two calendar years shall, with the written approval of such election by the ~~administrator~~ director, become an employer subject to this chapter to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January the employer has filed with the ~~administrator~~ director a written notice to that effect.

(5) Any employer for whom services that do not constitute employment are performed may file with the ~~administrator~~ director a written election that all such services performed by individuals in the employer's employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter, for not less than two calendar years. Upon written approval of the election by the ~~administrator~~ director, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be employment subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January such employer has filed with the ~~administrator~~ director a written notice to that effect.

(B)(1) "Employment" means service performed by an individual for remuneration under any contract of hire, written or oral, express or implied, including service performed in interstate commerce and service performed by an officer of a corporation, without regard to whether such service is executive, managerial, or manual in nature, and without regard to whether such officer is a stockholder or a member of the board of directors of the corporation, unless it is shown to the satisfaction of the ~~administrator~~ director that such individual has been and will continue to be free from direction or control over the performance of such service, both under a contract of service and in fact. The ~~administrator~~ director shall adopt rules to

define "direction or control."

(2) "Employment" includes:

(a) Service performed after December 31, 1977, by an individual in the employ of the state or any of its instrumentalities, or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions and without regard to divisions (A)(1)(a) and (b) of this section, provided that such service is excluded from employment as defined in the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301, 3306(c)(7) and is not excluded under division (B)(3) of this section; or the services of employees covered by voluntary election, as provided under divisions (A)(4) and (5) of this section;

(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization which is excluded from the term "employment" as defined in the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason of section 26 U.S.C.A. 3306(c)(8) of that act and is not excluded under division (B)(3) of this section;

(c) Domestic service performed after December 31, 1977, for an employer, as provided in division (A)(1)(c) of this section;

(d) Agricultural labor performed after December 31, 1977, for a farm operator or a crew leader, as provided in division (A)(1)(d) of this section;

(e) Service not covered under division (B)(1) of this section which is performed after December 31, 1971:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, laundry, or dry-cleaning services, for the individual's employer or principal;

(ii) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged on a full-time basis in the solicitation on behalf of and in the transmission to the salesperson's employer or principal except for sideline sales activities on behalf of some other person of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale, or supplies for use in their business operations, provided that for the purposes of this division (B)(2)(e)(ii) of this section, the services shall be deemed employment if the contract of service contemplates that substantially all of the services are to be performed personally by the individual and that the individual does not have a substantial investment in facilities used in connection with the

performance of the services other than in facilities for transportation, and the services are not in the nature of a single transaction that is not a part of a continuing relationship with the person for whom the services are performed.

(f) An individual's entire service performed within or both within and without the state if:

(i) The service is localized in this state.

(ii) The service is not localized in any state, but some of the service is performed in this state and either the base of operations, or if there is no base of operations then the place from which such service is directed or controlled, is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

(g) Service not covered under division (B)(2)(f)(ii) of this section and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state, the Virgin Islands, Canada, or of the United States, if the individual performing such service is a resident of this state and the ~~administrator of the bureau of employment services~~ director approves the election of the employer for whom such services are performed; or, if the individual is not a resident of this state but the place from which the service is directed or controlled is in this state, the entire services of such individual shall be deemed to be employment subject to this chapter, provided service is deemed to be localized within this state if the service is performed entirely within this state or if the service is performed both within and without this state but the service performed without this state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(h) Service of an individual who is a citizen of the United States, performed outside the United States except in Canada after December 31, 1971, or the Virgin Islands, after December 31, 1971, and before the first day of January of the year following that in which the United States secretary of labor approves the Virgin Islands law for the first time, in the employ of an American employer, other than service which is "employment" under divisions (B)(2)(f) and (g) of this section or similar provisions of another state's law, if:

(i) The employer's principal place of business in the United States is located in this state;

(ii) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; or the employer is a

corporation which is organized under the laws of this state, or the employer is a partnership or a trust and the number of partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(iii) None of the criteria of divisions (B)(2)(f)(i) and (ii) of this section is met but the employer has elected coverage in this state or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this chapter.

(i) For the purposes of division (B)(2)(h) of this section, the term "American employer" means an employer who is an individual who is a resident of the United States; or a partnership, if two-thirds or more of the partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state, provided the term "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(j) Notwithstanding any other provisions of divisions (B)(1) and (2) of this section, service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, which, as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is required to be covered under this chapter.

(k) Construction services performed by any individual under a construction contract, as defined in section 4141.39 of the Revised Code, if the ~~administrator~~ director determines that the employer for whom services are performed has the right to direct or control the performance of the services and that the individuals who perform the services receive remuneration for the services performed. The ~~administrator~~ director shall presume that the employer for whom services are performed has the right to direct or control the performance of the services if ten or more of the following criteria apply:

(i) The employer directs or controls the manner or method by which instructions are given to the individual performing services;

(ii) The employer requires particular training for the individual performing services;

(iii) Services performed by the individual are integrated into the regular

functioning of the employer;

(iv) The employer requires that services be provided by a particular individual;

(v) The employer hires, supervises, or pays the wages of the individual performing services;

(vi) A continuing relationship between the employer and the individual performing services exists which contemplates continuing or recurring work, even if not full-time work;

(vii) The employer requires the individual to perform services during established hours;

(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;

(ix) The employer requires the individual to perform services on the employer's premises;

(x) The employer requires the individual performing services to follow the order of work established by the employer;

(xi) The employer requires the individual performing services to make oral or written reports of progress;

(xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;

(xiii) The employer pays expenses for the individual performing services;

(xiv) The employer furnishes the tools and materials for use by the individual to perform services;

(xv) The individual performing services has not invested in the facilities used to perform services;

(xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the services;

(xvii) The individual performing services is not performing services for more than two employers simultaneously;

(xviii) The individual performing services does not make the services available to the general public;

(xix) The employer has a right to discharge the individual performing services;

(xx) The individual performing services has the right to end the individual's relationship with the employer without incurring liability pursuant to an employment contract or agreement.

(3) "Employment" does not include the following services if they are found not subject to the "Federal Unemployment Tax Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the services are not required to be

included under division (B)(2)(j) of this section:

(a) Service performed after December 31, 1977, in agricultural labor, except as provided in division (A)(1)(d) of this section;

(b) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority except as provided in division (A)(1)(c) of this section;

(c) Service performed after December 31, 1977, for this state or a political subdivision as described in division (B)(2) (a) of this section when performed:

(i) As a publicly elected official;

(ii) As a member of a legislative body, or a member of the judiciary;

(iii) As a military member of the Ohio national guard;

(iv) As an employee, not in the classified service as defined in section 124.11 of the Revised Code, serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency;

(v) In a position which, under or pursuant to law, is designated as a major nontenured policymaking or advisory position, not in the classified service of the state, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(d) In the employ of any governmental unit or instrumentality of the United States;

(e) Service performed after December 31, 1971:

(i) Service in the employ of an educational institution or institution of higher education, including those operated by the state or a political subdivision, if such service is performed by a student who is enrolled and is regularly attending classes at the educational institution or institution of higher education; or

(ii) By an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, provided that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(f) Service performed by an individual in the employ of the individual's son, daughter, or spouse and service performed by a child under the age of eighteen in the employ of the child's father or mother;

(g) Service performed for one or more principals by an individual who is compensated on a commission basis, who in the performance of the work is master of the individual's own time and efforts, and whose remuneration is wholly dependent on the amount of effort the individual chooses to expend, and which service is not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971:

(i) By an individual for an employer as an insurance agent or as an insurance solicitor, if all this service is performed for remuneration solely by way of commission;

(ii) As a home worker performing work, according to specifications furnished by the employer for whom the services are performed, on materials or goods furnished by such employer which are required to be returned to the employer or to a person designated for that purpose.

(h) Service performed after December 31, 1971:

(i) In the employ of a church or convention or association of churches, or in an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of the individual's ministry or by a member of a religious order in the exercise of duties required by such order; or

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(i) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the "Railroad Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 351;

(j) Service performed by an individual in the employ of any organization exempt from income tax under section 501 of the "Internal Revenue Code of 1954," if the remuneration for such service does not exceed fifty dollars in any calendar quarter, or if such service is in connection with the collection of dues or premiums for a fraternal beneficial society, order, or association and is performed away from the home office or is ritualistic service in connection with any such society, order, or association;

(k) Casual labor not in the course of an employer's trade or business;

incidental service performed by an officer, appraiser, or member of a finance committee of a bank, building and loan association, savings and loan association, or savings association when the remuneration for such incidental service exclusive of the amount paid or allotted for directors' fees does not exceed sixty dollars per calendar quarter is casual labor;

(l) Service performed in the employ of a voluntary employees' beneficial association providing for the payment of life, sickness, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if admission to a membership in such association is limited to individuals who are officers or employees of a municipal or public corporation, of a political subdivision of the state, or of the United States and no part of the net earnings of such association inures, other than through such payments, to the benefit of any private shareholder or individual;

(m) Service performed by an individual in the employ of a foreign government, including service as a consular or other officer or employee or of a nondiplomatic representative;

(n) Service performed in the employ of an instrumentality wholly owned by a foreign government if the service is of a character similar to that performed in foreign countries by employees of the United States or of an instrumentality thereof and if the ~~administrator~~ director finds that the secretary of state of the United States has certified to the secretary of the treasury of the United States that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States and of instrumentalities thereof;

(o) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(p) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;

(q) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(r) Service performed in the employ of the United States or an instrumentality of the United States immune under the constitution of the

United States from the contributions imposed by this chapter, except that to the extent that congress permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, provided that if this state is not certified for any year by the proper agency of the United States under section 3304 of the "Internal Revenue Code of 1954," the payments required of such instrumentalities with respect to such year shall be refunded by the ~~administrator~~ director from the fund in the same manner and within the same period as is provided in division (E) of section 4141.09 of the Revised Code with respect to contributions erroneously collected;

(s) Service performed by an individual as a member of a band or orchestra, provided such service does not represent the principal occupation of such individual, and which service is not subject to or required to be covered for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971, for a nonprofit organization, this state or its instrumentalities, or a political subdivision or its instrumentalities, as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work-relief or work-training.

(t) Service performed in the employ of a day camp whose camping season does not exceed twelve weeks in any calendar year, and which service is not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971:

(i) In the employ of a hospital, if the service is performed by a patient of the hospital, as defined in division (W) of this section;

(ii) For a prison or other correctional institution by an inmate of the prison or correctional institution;

(iii) Service performed after December 31, 1977, by an inmate of a custodial institution operated by the state, a political subdivision, or a nonprofit organization.

(u) Service that is performed by a nonresident alien individual for the period the individual temporarily is present in the United States as a nonimmigrant under division (F), (J), (M), or (Q) of section 101(a)(15) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as

amended, that is excluded under section 3306(c)(19) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

(v) Notwithstanding any other provisions of division (B)(3) of this section, services which are excluded under divisions (B)(3)(g), (j), (k), and (l) of this section, shall not be excluded from employment when performed for a nonprofit organization, as defined in division (X) of this section or for this state or its instrumentalities, or for a political subdivision or its instrumentalities.

(4) If the services performed during one half or more of any pay period by an employee for the person employing that employee constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one half of any such pay period by an employee for the person employing that employee do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in division (B)(4) of this section, "pay period" means a period, of not more than thirty-one consecutive days, for which payment of remuneration is ordinarily made to the employee by the person employing that employee. Division (B)(4) of this section does not apply to services performed in a pay period by an employee for the person employing that employee, if any of such service is excepted by division (B)(3)(o) of this section.

(C) "Benefits" means money payments payable to an individual who has established benefit rights, as provided in this chapter, for loss of remuneration due to the individual's unemployment.

(D) "Benefit rights" means the weekly benefit amount and the maximum benefit amount that may become payable to an individual within the individual's benefit year as determined by the ~~administrator~~ director.

(E) "Claim for benefits" means a claim for waiting period or benefits for a designated week.

(F) "Additional claim" means the first claim for benefits filed following any separation from employment during a benefit year; "continued claim" means any claim other than the first claim for benefits and other than an additional claim.

(G)(1) "Wages" means remuneration paid to an employee by each of the employee's employers with respect to employment; except that wages shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise, which in any calendar year is in excess of eight thousand two hundred fifty dollars on and after January 1, 1992; eight thousand five hundred dollars on and after January 1, 1993; eight thousand

seven hundred fifty dollars on and after January 1, 1994; and nine thousand dollars on and after January 1, 1995. Remuneration in excess of such amounts shall be deemed wages subject to contribution to the same extent that such remuneration is defined as wages under the "Federal Unemployment Compensation Tax Act," 84 Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The remuneration paid an employee by an employer with respect to employment in another state, upon which contributions were required and paid by such employer under the unemployment compensation act of such other state, shall be included as a part of remuneration in computing the amount specified in this division.

(2) Notwithstanding division (G)(1) of this section, if, as of the computation date for any calendar year, the ~~administrator~~ director determines that the level of the unemployment compensation fund is sixty per cent or more below the minimum safe level as defined in section 4141.25 of the Revised Code, then, effective the first day of January of the following calendar year, wages subject to this chapter shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise which is in excess of nine thousand dollars. The increase in the dollar amount of wages subject to this chapter under this division shall remain in effect from the date of the ~~administrator's~~ director's determination pursuant to division (G)(2) of this section and thereafter notwithstanding the fact that the level in the fund may subsequently become less than sixty per cent below the minimum safe level.

(H)(1) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash, except that in the case of agricultural or domestic service, "remuneration" includes only cash remuneration. Gratuities customarily received by an individual in the course of the individual's employment from persons other than the individual's employer and which are accounted for by such individual to the individual's employer are taxable wages.

The reasonable cash value of compensation paid in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the ~~administrator~~ director, provided that "remuneration" does not include:

(a) Payments as provided in divisions (b)(2) to (b)(16) of section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, as amended;

(b) The payment by an employer, without deduction from the

remuneration of the individual in the employer's employ, of the tax imposed upon an individual in the employer's employ under section 3101 of the "Internal Revenue Code of l954," with respect to services performed after October 1, 1941.

(2) "Cash remuneration" means all remuneration paid in cash, including commissions and bonuses, but not including the cash value of all compensation in any medium other than cash.

(I) "Interested party" means the ~~administrator~~ director and any party to whom notice of a determination of an application for benefit rights or a claim for benefits is required to be given under section 4141.28 of the Revised Code.

(J) "Annual payroll" means the total amount of wages subject to contributions during a twelve-month period ending with the last day of the second calendar quarter of any calendar year.

(K) "Average annual payroll" means the average of the last three annual payrolls of an employer, provided that if, as of any computation date, the employer has had less than three annual payrolls in such three-year period, such average shall be based on the annual payrolls which the employer has had as of such date.

(L)(1) "Contributions" means the money payments to the state unemployment compensation fund required of employers by section 4141.25 of the Revised Code and of the state and any of its political subdivisions electing to pay contributions under section 4141.242 of the Revised Code. Employers paying contributions shall be described as "contributory employers."

(2) "Payments in lieu of contributions" means the money payments to the state unemployment compensation fund required of reimbursing employers under sections 4141.241 and 4141.242 of the Revised Code.

(M) An individual is "totally unemployed" in any week during which the individual performs no services and with respect to such week no remuneration is payable to the individual.

(N) An individual is "partially unemployed" in any week if, due to involuntary loss of work, the total remuneration payable to the individual for such week is less than the individual's weekly benefit amount.

(O) "Week" means the calendar week ending at midnight Saturday unless an equivalent week of seven consecutive calendar days is prescribed by the ~~administrator~~ director.

(1) "Qualifying week" means any calendar week in an individual's base period with respect to which the individual earns or is paid remuneration in employment subject to this chapter. A calendar week with respect to which

an individual earns remuneration but for which payment was not made within the base period, when necessary to qualify for benefit rights, may be considered to be a qualifying week. The number of qualifying weeks which may be established in a calendar quarter shall not exceed the number of calendar weeks in the quarter.

(2) "Average weekly wage" means the amount obtained by dividing an individual's total remuneration for all qualifying weeks during the base period by the number of such qualifying weeks, provided that if the computation results in an amount which is not a multiple of one dollar, such amount shall be rounded to the next lower multiple of one dollar.

(P) "Weekly benefit amount" means the amount of benefits an individual would be entitled to receive for one week of total unemployment.

(Q)(1) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except as provided in division (Q)(2) of this section.

(2) If an individual does not have sufficient qualifying weeks and wages in the base period to qualify for benefit rights, the individual's base period shall be the four most recently completed calendar quarters preceding the first day of the individual's benefit year. Such base period shall be known as the "alternate base period." If information as to weeks and wages for the most recent quarter of the alternate base period is not available to the ~~administrator~~ director from the regular quarterly reports of wage information, which are systematically accessible, the ~~administrator~~ director may, consistent with the provisions of section 4141.28 of the Revised Code, base the determination of eligibility for benefits on the affidavit of the claimant with respect to weeks and wages for that calendar quarter. The claimant shall furnish payroll documentation, where available, in support of the affidavit. The determination based upon the alternate base period as it relates to the claimant's benefit rights, shall be amended when the quarterly report of wage information from the employer is timely received and that information causes a change in the determination. As provided in division (B)(1)(b) of section 4141.28 of the Revised Code, any benefits paid and charged to an employer's account, based upon a claimant's affidavit, shall be adjusted effective as of the beginning of the claimant's benefit year. No calendar quarter in a base period or alternate base period shall be used to establish a subsequent benefit year.

(3) The "base period" of a combined wage claim, as described in division (H) of section 4141.43 of the Revised Code, shall be the base period prescribed by the law of the state in which the claim is allowed.

(R) "Benefit year" with respect to an individual means the fifty-two

week period beginning with the first day of that week with respect to which the individual first files a valid application for determination of benefit rights, and thereafter the fifty-two week period beginning with the first day of that week with respect to which the individual next files a valid application for determination of benefit rights after the termination of the individual's last preceding benefit year, except that the application shall not be considered valid unless the individual has had employment in six weeks that is subject to this chapter or the unemployment compensation act of another state, or the United States, and has, since the beginning of the individual's previous benefit year, in the employment earned three times the average weekly wage determined for the previous benefit year. The "benefit year" of a combined wage claim, as described in division (H) of section 4141.43 of the Revised Code, shall be the benefit year prescribed by the law of the state in which the claim is allowed.

Effective for applications filed with respect to weeks beginning on or after October 1, 2000, any application for determination of benefit rights made in accordance with section 4141.28 of the Revised Code is valid if the individual filing such application is unemployed, has been employed by an employer or employers subject to this chapter in at least twenty qualifying weeks within the individual's base period, has earned or been paid remuneration at an average weekly wage of not less than twenty-seven and one-half per cent of the statewide average weekly wage for such weeks, and the reason for the individual's separation from employment is not disqualifying pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code. A disqualification imposed pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code must be removed as provided in those sections as a requirement of establishing a valid application for benefit rights.

The statewide average weekly wage shall be calculated by the ~~administrator~~ director once a year based on the twelve-month period ending the thirtieth day of June, as set forth in division (B)(3) of section 4141.30 of the Revised Code, rounded down to the nearest dollar. Increases or decreases in the amount of remuneration required to have been earned or paid in order for individuals to have filed valid applications shall become effective on Sunday of the calendar week in which the first day of January occurs that follows the twelve-month period ending the thirtieth day of June upon which the calculation of the statewide average weekly wage was based.

As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is

"partially unemployed" or "totally unemployed" as defined in this section or if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days.

(S) "Calendar quarter" means the period of three consecutive calendar months ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, or the equivalent thereof as the ~~administrator~~ director prescribes by rule.

(T) "Computation date" means the first day of the third calendar quarter of any calendar year.

(U) "Contribution period" means the calendar year beginning on the first day of January of any year.

(V) "Agricultural labor," for the purpose of this division, means any service performed prior to January 1, 1972, which was agricultural labor as defined in this division prior to that date, and service performed after December 31, 1971:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 U.S.C. 1141j, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one half of the commodity with respect to which such service is performed;

(5) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in division (V)(4) of this section, but only if the operators produced more than one-half of the commodity with respect to which the service is performed;

(6) Divisions (V)(4) and (5) of this section shall not be deemed to be applicable with respect to service performed:

(a) In connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(b) On a farm operated for profit if the service is not in the course of the employer's trade or business.

As used in division (V) of this section, "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

(W) "Hospital" means an institution which has been registered or licensed by the Ohio department of health as a hospital.

(X) "Nonprofit organization" means an organization, or group of organizations, described in section 501(c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under section 501(a) of that code.

(Y) "Institution of higher education" means a public or nonprofit educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent;

(2) Is legally authorized in this state to provide a program of education beyond high school; and

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation.

For the purposes of this division, all colleges and universities in this state are institutions of higher education.

(Z) For the purposes of this chapter, "states" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(AA) "Alien" means, for the purposes of division (A)(1)(d) of this section, an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8

U.S.C.A. 1101.

(BB)(1) "Crew leader" means an individual who furnishes individuals to perform agricultural labor for any other employer or farm operator, and:

(a) Pays, either on the individual's own behalf or on behalf of the other employer or farm operator, the individuals so furnished by the individual for the service in agricultural labor performed by them;

(b) Has not entered into a written agreement with the other employer or farm operator under which the agricultural worker is designated as in the employ of the other employer or farm operator.

(2) For the purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator shall be treated as an employee of the crew leader if:

(a) The crew leader holds a valid certificate of registration under the "Farm Labor Contractor Registration Act of 1963," 90 Stat. 2668, 7 U.S.C. 2041; or

(b) Substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(c) If the individual is not in the employment of the other employer or farm operator within the meaning of division (B)(1) of this section.

(3) For the purposes of this division, any individual who is furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator and who is not treated as in the employment of the crew leader under division (BB)(2) of this section shall be treated as the employee of the other employer or farm operator and not of the crew leader. The other employer or farm operator shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the crew leader's own behalf or on behalf of the other employer or farm operator, for the service in agricultural labor performed for the other employer or farm operator.

(CC) "Educational institution" means an institution other than an institution of higher education as defined in division (Y) of this section which:

(1) Offers participants, trainees, or students an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of an instructor or teacher; and

(2) Is approved, chartered, or issued a permit to operate as a school by the state board of education or other government agency that is authorized

within the state to approve, charter, or issue a permit for the operation of a school.

For the purposes of this division, the courses of study or training which the institution offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

Sec. 4141.031. The ~~administrator~~ director of the ~~bureau~~ department of ~~employment~~ job and family services shall appoint a migrant agricultural ~~ombudsman~~ ombudsperson as provided in section 3733.49 of the Revised Code.

Sec. 4141.044. Any person or corporation contracting to do business with the state of Ohio shall provide a listing of all available job vacancies within ~~his~~ the person's or corporation's power to fill to the ~~Ohio bureau~~ director of ~~employment~~ job and family services, ~~which~~ who shall attempt to fill such job vacancies with persons registered with ~~it~~ the director. This section shall not apply to job vacancies which a person or corporation proposes to fill from within ~~his~~ the person's or corporation's own organization or to job vacancies which a person or corporation proposes to fill pursuant to a customary and traditional employer-union hiring arrangement, except that once a person or corporation considers applicants outside of ~~his~~ the person's or corporation's own organization or customary and traditional employer-union hiring arrangement, this exclusion shall not apply.

Sec. 4141.07. (A) The unemployment compensation review commission, by rule, may authorize persons other than ones who are admitted to the practice of law also to appear before the commission in any kind of proceeding as representatives of employers or claimants. The commission may prescribe in any rule so adopted the minimum qualifications for such agents and such minimum standards of practice as are appropriate.

Notwithstanding section 119.13 of the Revised Code, the representation of parties before the commission by a person not admitted to the practice of law does not impair or invalidate a proceeding for the purpose of a subsequent appeal to a court or for any other purpose where a party knowingly selects representation by a person not admitted to the practice of law.

(B) No individual claiming benefits shall be charged fees of any kind in any proceeding under sections 4141.01 to 4141.46 of the Revised Code, by the commission or its representatives. Any individual claiming benefits or any employer may represent themselves personally or be represented by a person admitted to the practice of law or by a person not admitted to the

practice of law in any proceeding under this chapter before the ~~administrator of the bureau~~ director of ~~employment~~ job and family services, or, before the commission or a hearing officer; but no such counsel or agent representing an individual claiming benefits shall either charge or receive for such services more than an amount approved by the commission.

No person shall charge or receive anything of value in violation of this section.

Sec. 4141.09. (A) There is hereby created an unemployment compensation fund to be administered by the state without liability on the part of the state beyond the amounts paid into the fund and earned by the fund. The unemployment compensation fund shall consist of all contributions, payments in lieu of contributions described in sections 4141.241 and 4141.242 of the Revised Code, reimbursements of the federal share of extended benefits described in section 4141.301 of the Revised Code, collected under sections 4141.01 to 4141.46 of the Revised Code, together with all interest earned upon any moneys deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," any property or securities acquired through the use of moneys belonging to the fund, and all earnings of such property or securities. The unemployment compensation fund shall be used to pay benefits and refunds as provided by such sections and for no other purpose.

(B) The treasurer of state shall be the custodian of the unemployment compensation fund and shall administer such fund in accordance with the directions of the ~~administrator~~ director of ~~the bureau of employment~~ job and family services. All disbursements therefrom shall be paid by the treasurer of state on warrants drawn by the ~~administrator~~ director. Such warrants may bear the facsimile signature of the ~~administrator~~ director printed thereon and that of a deputy or other employee of the ~~administrator~~ director charged with the duty of keeping the account of the unemployment compensation fund and with the preparation of warrants for the payment of benefits to the persons entitled thereto. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, except as provided in division (C) of this section, but shall be maintained in separate accounts on the books of the depositary bank. Such money shall be secured by the depositary bank to the same extent and in the same manner as required by sections 135.01 to 135.21 of the Revised Code; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state. All sums recovered for losses sustained by the unemployment

compensation fund shall be deposited therein. The treasurer of state shall be liable on the treasurer's official bond for the faithful performance of the treasurer's duties in connection with the unemployment compensation fund, such liability to exist in addition to any liability upon any separate bond.

(C) The treasurer of state shall maintain within the unemployment compensation fund three separate accounts which shall be a clearing account, an unemployment trust fund account, and a benefit account. All moneys payable to the unemployment compensation fund, upon receipt thereof by the ~~administrator~~ director, shall be forwarded to the treasurer of state, who shall immediately deposit them in the clearing account. Refunds of contributions, or payments in lieu of contributions, payable pursuant to division (E) of this section may be paid from the clearing account upon warrants signed by a deputy or other employee of the ~~administrator~~ director charged with the duty of keeping the record of the clearing account and with the preparation of warrants for the payment of refunds to persons entitled thereto. After clearance thereof, all moneys in the clearing account shall be deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," in accordance with requirements of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 3304(a)(3), any law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Federal funds, other than funds received by the ~~administrator~~ director under divisions (I) and (J) of this section, received for payment of federal benefits may be deposited into the benefit account solely for payment of benefits under a federal program administered by this state. Moneys so requisitioned shall be used solely for the payment of benefits and for no other purpose. Moneys in the clearing and benefit accounts may be deposited by the treasurer of state, under the direction of the ~~administrator~~ director, in any bank or public depositary in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

(D) Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the ~~administrator~~ director. The ~~administrator~~ director shall requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this state's account therein, as are deemed necessary for the payment of benefits for a

reasonable future period. Upon receipt thereof, the treasurer of state shall deposit such moneys in the benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not require specific appropriations or other formal release by state officers of money in their custody. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the ~~administrator~~ director, shall be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund, as provided in division (C) of this section. Unclaimed or unpaid federal funds redeposited with the secretary of the treasury of the United States shall be credited to the appropriate federal account.

(E) No claim for an adjustment or a refund on contribution, payment in lieu of contributions, interest, or forfeiture alleged to have been erroneously or illegally assessed or collected, or alleged to have been collected without authority, and no claim for an adjustment or a refund of any sum alleged to have been excessive or in any manner wrongfully collected shall be allowed unless an application, in writing, therefor is made within four years from the date on which such payment was made. If the ~~administrator~~ director determines that such contribution, payment in lieu of contributions, interest, or forfeiture, or any portion thereof, was erroneously collected, the ~~administrator~~ director shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments, or payments in lieu of contributions, by the employer, or the ~~administrator~~ director may refund said amount, without interest, from the clearing account of the unemployment compensation fund, except as provided in division (B) of section 4141.11 of the Revised Code. For like cause and within the same period, adjustment or refund may be so made on the ~~administrator's~~ director's own initiative. An overpayment of contribution, payment in lieu of contributions, interest, or forfeiture for which an employer has not made application for refund prior to the date of sale of the employer's business shall accrue to the employer's successor in interest.

An application for an adjustment or a refund, or any portion thereof, that is rejected is binding upon the employer unless, within thirty days after the mailing of a written notice of rejection to the employer's last known address, or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application for a review and redetermination setting forth the reasons therefor. The ~~administrator~~ director

shall promptly examine the application for review and redetermination, and if a review is granted, the employer shall be promptly notified thereof, and shall be granted an opportunity for a prompt hearing.

(F) If the ~~administrator~~ director finds that contributions have been paid to the ~~bureau of employment services~~ director in error, and that such contributions should have been paid to a department of another state or of the United States charged with the administration of an unemployment compensation law, the ~~administrator~~ director may upon request by such department or upon the ~~administrator's~~ director's own initiative transfer to such department the amount of such contributions, less any benefits paid to claimants whose wages were the basis for such contributions. The ~~administrator~~ director may request and receive from such department any contributions or adjusted contributions paid in error to such department which should have been paid to the ~~bureau~~ director.

(G) In accordance with section 303(c)(3) of the Social Security Act, and section 3304(a)(17) of the Internal Revenue Code of 1954 for continuing certification of Ohio unemployment compensation laws for administrative grants and for tax credits, any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly, by an equivalent reduction in the Ohio unemployment taxes or otherwise, by the state from amounts in the unemployment compensation fund.

(H) The treasurer of state, under the direction of the ~~administrator~~ director and in accordance with the "Cash Management Improvement Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit amounts of interest earned by the state on funds in the benefit account established pursuant to division (C) of this section into the ~~bureau~~ department of ~~employment~~ job and family services banking fees fund, which is hereby created in the state treasury for the purpose of paying related banking costs incurred by the state for the period for which the interest is calculated, except that if the deposited interest exceeds the banking costs incurred by the state for the period for which the interest is calculated, the treasurer of state shall deposit the excess interest into the unemployment trust fund.

(I) The treasurer of state, under the direction of the ~~administrator~~ director, shall deposit federal funds received by the ~~administrator~~ director pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, as amended, into the Trade Act account, which is hereby created for the purpose of paying for benefits, training, and support services under that act.

(J) The treasurer of state, under the direction of the ~~administrator~~ director, shall deposit federal funds received by the ~~administrator~~ director

pursuant to the "North American Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 19 U.S.C.A. 3301, into the North American Free Trade account, which is hereby created for the purpose of paying for benefits, training, and support services under that act.

Sec. 4141.11. There is hereby created in the state treasury the unemployment compensation special administrative fund. The fund shall consist of all interest collected on delinquent contributions pursuant to this chapter, all fines and forfeitures collected under this chapter, and all court costs and interest paid or collected in connection with the repayment of fraudulently obtained benefits pursuant to section 4141.35 of the Revised Code. All interest earned on the money in the fund shall be retained in the fund and shall not be credited or transferred to any other fund or account, except as provided in division (B) of this section. All moneys which are deposited or paid into this fund may be used by:

(A) The ~~administrator~~ director of ~~the bureau of employment~~ job and family services with the approval of the unemployment compensation advisory council whenever it appears that such use is necessary for:

(1) The proper administration of this chapter and no federal funds are available for the specific purpose for which the expenditure is to be made, provided the moneys are not substituted for appropriations from federal funds, which in the absence of such moneys would be available;

(2) The proper administration of this chapter for which purpose appropriations from federal funds have been requested and approved but not received, provided the fund would be reimbursed upon receipt of the federal appropriation;

(3) To the extent possible, the repayment to the unemployment compensation administration fund of moneys found by the proper agency of the United States to have been lost or expended for purposes other than, or an amount in excess of, those found necessary by the proper agency of the United States for the administration of this chapter.

(B) The ~~administrator~~ director or the ~~administrator's~~ director's deputy whenever it appears that such use is necessary for the payment of refunds or adjustments of interest, fines, forfeitures, or court costs erroneously collected and paid into this fund pursuant to this chapter.

Whenever the balance in the unemployment compensation special administrative fund is considered to be excessive by the council, the ~~administrator~~ director shall request the director of budget and management to transfer to the unemployment compensation fund the amount considered to be excessive. Any balance in the unemployment compensation special administrative fund shall not lapse at any time, but shall be continuously

available to the ~~administrator~~ director of jobs and family services or to the council for expenditures consistent with this chapter.

Sec. 4141.131. (A) The ~~administrator of the bureau~~ director of ~~employment~~ job and family services may enter into contracts for the sale of real property no longer needed by the ~~bureau of employment services~~ director for the operations of the ~~bureau~~ director under this title. Any costs attributable to the ~~bureau~~ director that are associated with the sale of real property under this section shall be paid out of the unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

(B)(1) Earnest moneys from the sale of real property pursuant to division (A) of this section shall be deposited into the ~~bureau~~ department of ~~employment~~ job and family services building consolidation fund, which is hereby created in the state treasury. The balance of the purchase price shall be deposited into the ~~bureau~~ department of ~~employment~~ job and family services building enhancement fund, which is hereby created in the state treasury. The building enhancement fund shall retain its own interest. Upon completion of the sale and the request of the ~~administrator~~ director, the treasurer of state shall transfer the earnest moneys in the building consolidation fund into the building enhancement fund. The ~~administrator~~ director shall use the interest earned on the moneys in the building enhancement fund only in accordance with division (C) of this section.

(2) The ~~administrator~~ director shall deposit sufficient moneys from the sale of real property pursuant to division (A) of this section into the unemployment compensation special administrative fund to reimburse the fund for all costs associated with the sale of that real property.

(C) The ~~bureau~~ director shall use the moneys in the building enhancement fund from the sale of real property pursuant to division (A) of this section, less the costs of the sale as specified in division (B)(2) of this section, in accordance with the provisions and requirements of the "Social Security Act," 49 Stat. 626 (1935), 52 U.S.C. 502(a) and 1103(c)(2), and the instructions of the United States department of labor, to improve buildings owned by or under the control of the ~~bureau~~ director. If the ~~administrator~~ director determines that there are no buildings for which money in the building enhancement fund may be used, the money shall be returned to the United States department of labor.

(D) The auditor of state, with the assistance of the attorney general, shall prepare a deed to the real property being sold upon notice from the ~~administrator~~ director that a contract for the sale of that property has been executed in accordance with this section. The deed shall state the

deration and any conditions placed upon the sale. The deed shall be executed by the governor in the name of the state, countersigned by the secretary of state, sealed with the great seal of the state, presented in the office of the auditor of state for recording, and delivered to the buyer upon payment of the balance of the purchase price.

The buyer shall present the deed for recording in the county recorder's office of the county in which the real property is located.

Sec. 4141.14. (A) All rules of the ~~administrator~~ director of ~~the bureau of employment~~ job and family services adopted pursuant to this chapter shall be approved by the unemployment compensation review commission before the rules become effective. All such rules shall specify on their face their effective date and the date on which they will expire, if known. Approval by the unemployment compensation review commission shall also be required before amendments to, or rescission of, any rules of the ~~administrator~~ director adopted pursuant to this chapter become effective. If the commission disapproves a rule of the ~~administrator~~ director, it shall determine and promulgate a rule that it considers appropriate after affording a hearing to the ~~administrator~~ director.

(B)(1) Any rule promulgated pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(2) of this section is filed as follows:

(a) Two certified copies of the rule shall be filed with both the secretary of state and the director of the legislative service commission;

(b) Two certified copies of the rule shall be filed with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (H) of section 119.03 of the Revised Code does not apply.

If all copies are not filed on the same day, the rule shall be effective on the tenth day after the day on which the latest filing is made. If the ~~bureau of employment services~~ director or the unemployment compensation review commission in adopting a rule pursuant to this chapter designates an effective date that is later than the effective date provided for by this division, the rule if filed as required by this division shall become effective on the later date designated by the ~~bureau~~ director or commission.

If the commission or ~~bureau~~ director adopts or amends a rule that is subject to division (H) of section 119.03 of the Revised Code, the commission or ~~bureau~~ director shall assign a review date to the rule that is not later than five years after its effective date. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A

rule with a review date is subject to review under section 119.032 of the Revised Code.

(2) The ~~bureau~~ director and commission shall file the rule in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director of the legislative service commission for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives the ~~bureau~~ director of ~~employment~~ job and family services or the unemployment compensation review commission written notice pursuant to section 103.05 of the Revised Code that a rule filed by the ~~bureau~~ director or review commission is not in compliance with the rules of the legislative service commission, the ~~bureau~~ director or review commission shall within thirty days after receipt of the notice conform the rule to the rules of the legislative service commission as directed in the notice.

The secretary of state and the director of the legislative service commission shall preserve the rules filed under division (B)(1)(a) of this section in an accessible manner. Each such rule shall be a public record open to public inspection and may be lent to any law publishing company that wishes to reproduce it.

(C) As used in this section:

(1) "Rule" includes an amendment or rescission of a rule.

(2) "Substantive revision" has the same meaning as in division (J) of section 119.01 of the Revised Code.

This is an interim section effective until April 1, 2001.

Sec. 4141.17. The ~~administrator~~ director of ~~the bureau of employment~~ job and family services and the unemployment compensation review commission may administer oaths, certify to official acts, take depositions, issue subpoenas, and compel the attendance and testimony of witnesses and the production of books, accounts, papers, records, documents, and testimony in connection with the administration of this chapter.

In case of the refusal of a witness to attend or testify, or to produce

books or papers, as to any matter regarding which the witness might be lawfully interrogated in the administration of this chapter, the court of common pleas of the county in which the person resides or is found, the court of appeals that has jurisdiction over the county in which the person resides or is found, or a judge thereof, upon application of the ~~administrator~~ director or commission, shall compel obedience by proceedings as for contempt as in case of like refusal to obey a similar order of the court.

Sec. 4141.18. Every employer, whether or not otherwise subject to ~~sections 4141.01 to 4141.46, inclusive, of the Revised Code~~ this chapter, shall keep a true and accurate employment record of all ~~his~~ the employer's employees, whether qualified and eligible to benefits or not, and of the hours worked by each employee and of the wages paid to ~~him~~ the employee, and shall furnish to the ~~administrator~~ director of ~~the bureau of employment~~ job and family services upon demand a sworn statement of the same. Such record shall be open to inspection by the ~~administrator~~ director or ~~his~~ the director's authorized representatives at any reasonable time.

Sec. 4141.20. (A) Every employer, including those not otherwise subject to this chapter, shall furnish the ~~administrator~~ director of ~~the bureau of employment~~ job and family services upon request all information required by the ~~administrator~~ director to carry out the requirements of this chapter. Every employer receiving from the ~~administrator~~ director any blank with direction to fill it out shall cause it to be properly filled out, in the manner prescribed by the ~~administrator~~ director, so as to answer fully and correctly all questions therein propounded, and shall furnish all the information therein sought, or, if unable to do so, that employer shall give the ~~administrator~~ director in writing good and sufficient reason for such failure.

The ~~administrator~~ director may require that such information be verified under oath and returned to the ~~administrator~~ director within the period fixed by the ~~administrator~~ director or by law. The ~~administrator~~ director or any person employed by the ~~administrator~~ director for that purpose may examine under oath any such employer, or the officer, agent, or employee of that employer, for the purpose of ascertaining any information that the employer is required by this chapter to furnish to the ~~administrator~~ director. Any employer who fails to furnish information as is required by the ~~administrator~~ director under authority of this section shall forfeit five hundred dollars to be collected in a civil action brought against the employer in the name of the state.

(B) Effective with the calendar quarter beginning April 1, 1987, every contributory employer shall file a quarterly contribution report and a

uarterly report of wages. The quarterly reports shall be filed no later than the last day of the first month following the close of the calendar quarter for which the quarterly reports are being filed. The employer shall enter on the quarterly contribution report the total and taxable remuneration paid to all employees during the quarter. The employer shall enter on the quarterly report of wages the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act." The ~~administrator~~ director shall furnish the form or forms on which the quarterly reports are to be submitted or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the ~~administrator~~ director.

Effective until the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly contribution report or the report of wages containing all the required contribution and wage information within the time prescribed by this section, there shall be assessed a forfeiture amounting to ten per cent of the contributions due; provided such forfeiture shall not be less than twenty-five nor more than two hundred fifty dollars. The ~~administrator~~ director may waive the forfeiture only with respect to the report of wages, and the waiver may be approved only if the employer shows good cause for failure to file the required information.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly contribution report containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall not be less than thirty nor more than five hundred dollars per quarterly contribution report. The ~~administrator~~ director may waive the forfeiture only if the employer provides to the ~~administrator~~ director a written statement showing good cause for failure to file the required quarterly contribution report.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly report of wages containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall be not less than thirty nor more than five hundred dollars per quarterly report of wages. The ~~administrator~~ director may waive the forfeiture only if

the employer provides to the ~~administrator~~ director a written statement showing good cause for failure to file the required quarterly report of wages.

(C) Effective with the calendar quarter beginning April 1, 1987, every employer liable for payments in lieu of contributions shall file a quarterly payroll report and a quarterly report of wages. The employer shall file the quarterly reports no later than the last day of the first month following the close of the calendar quarter for which the quarterly reports are being filed. The employer shall enter on the quarterly payroll report the total remuneration paid to all employees during the quarter and the total wages that would have been taxable had the employer been subject to contributions. The employer shall enter on the quarterly report of wages the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act." The ~~administrator~~ director shall furnish the form or forms on which the quarterly reports are to be submitted or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the administrator.

Effective until the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly payroll report or the report of wages containing all of the required payroll or wage information within the time prescribed by this section, the employer shall be assessed a forfeiture of twenty-five dollars per report. The ~~administrator~~ director may waive the forfeiture only with respect to the report of wages, and such waiver may be approved only if the employer shows good cause for failure to file the required information.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly payroll report containing all the required wage information within the time prescribed by this section, the employer shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall not be less than thirty nor more than five hundred dollars per quarterly payroll report. The ~~administrator~~ director may waive the forfeiture only if the employer provides to the ~~administrator~~ director a written statement showing good cause for failure to file the required quarterly payroll report.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly report of wages containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per

cent of the total remuneration paid by the employer, provided such forfeiture shall be not less than thirty nor more than five hundred dollars per quarterly report of wages. The ~~administrator~~ director may waive the forfeiture only if the employer provides to the ~~administrator~~ director a written statement showing good cause for failure to file the required quarterly report of wages.

(D) All forfeitures required by this section shall be paid into the unemployment compensation special administrative fund as provided in section 4141.11 of the Revised Code.

Sec. 4141.23. (A) Contributions shall accrue and become payable by each employer for each calendar year or other period as prescribed by this chapter. Such contributions become due and shall be paid by each employer to the ~~bureau~~ director of ~~employment~~ job and family services for the unemployment compensation fund in accordance with such regulations as the ~~administrator of the bureau of employment services~~ director prescribes, and shall not be deducted, in whole or in part, from the remuneration of individuals in ~~his~~ the employer's employ.

In the payment of any contributions, a fractional part of a dollar may be disregarded unless it amounts to fifty cents or more, in which case it may be increased to the next higher dollar.

(B)(1) Any contribution or payment in lieu of contribution, due from an employer on or before December 31, 1992, shall, if not paid when due, bear interest at the rate of ten per cent per annum. In such computation any fraction of a month shall be considered as a full month.

(2) Any contribution, payment in lieu of contribution, interest, forfeiture, or fine due from an employer on or after January 1, 1993, shall, if not paid when due, bear interest at the annual rate of fourteen per cent compounded monthly on the aggregate receivable balance due. In such computation any fraction of a month shall be considered as a full month.

(C) The ~~administrator~~ director may waive the interest assessed under division (B)(2) of this section if the employer meets all of the following conditions within thirty days after the date the ~~administrator~~ director mails or delivers the notice of assessment of interest:

(1) Provides to the ~~administrator~~ director a written request for a waiver of interest clearly demonstrating that ~~his~~ the employer's failure to timely pay contributions, payments in lieu of contributions, interest, forfeiture, and fines was a result of circumstances beyond the control of the employer or ~~his~~ the employer's agent, except that negligence on the part of the employer or ~~his~~ the employer's agent shall not be considered beyond the control of the employer or ~~his~~ the employer's agent;

(2) Furnishes to the ~~administrator~~ director all quarterly reports required

under section 4141.20 of the Revised Code;

(3) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

The ~~administrator~~ director shall deny an employer's request for a waiver of interest ~~if he finds~~ after finding that the employer's failure to timely furnish reports or make payments as required under this chapter was due to an attempt to evade payment.

(D) Any contribution, interest, forfeiture, or fine required to be paid under this chapter by any employer shall, if not paid when due, become a lien upon the real and personal property of such employer. Upon failure of such employer to pay the contributions, interest, forfeiture, or fine required to be paid under this chapter, the ~~administrator~~ director shall file notice of such lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that such employer owns real estate or personal property. The ~~administrator~~ director shall notify the employer by mail of the lien. The absence of proof that the notice was sent does not affect the validity of the lien. Such lien shall not be valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time such notice is filed.

If the employer acquires real or personal property after notice of lien is filed, such lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property, unless the notice of lien is refiled after such property was acquired by the employer and before the competing lien attached to such after-acquired property or before the conveyance to such subsequent bona fide purchaser for value.

Such notice shall be recorded in a book kept by the recorder called the "unemployment compensation lien record" and indexed therein in an alphabetical index under the name of such employer. When such unpaid contributions, interest, forfeiture, or fines have been paid, the employer may record with the recorder of the county in which such notice of lien has been filed and recorded, notice of such payment. For recording such notice of payment the recorder shall charge and receive from the employer a fee of two dollars.

(E) Assessment of contributions shall not be made after four years from the date on which such contributions became payable, and no action in court for the collection of contributions without assessment of such contributions shall be begun after the expiration of five years from the date such contributions became payable. In case of a false or fraudulent report or of a

willful attempt in any manner to evade contributions, such contributions may be assessed or a proceeding in court for the collection of such contributions may be begun without assessment at any time. When the assessment of contributions has been made within such four-year period provided, action in court to collect such contributions may be begun within, but not later than, six years after such assessment.

(F) In the event of a distribution of an employer's assets, pursuant to an order of any court under the law of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, contributions, interest, forfeiture, or fine then or thereafter due have the same priority as provided by law for the payment of taxes due the state and shall be paid out of the trust fund in the same manner as provided for other claims for unpaid taxes due the state.

(G) If the attorney general finds after investigation that any claim for delinquent contributions, interest, forfeitures, or fines owing to the ~~bureau~~ director is uncollectible, in whole or in part, ~~he~~ the attorney general shall recommend to the ~~administrator~~ director the cancellation of such claim or any part thereof. The ~~administrator~~ director may thereupon effect such cancellation.

Sec. 4141.231. (A) If the ~~administrator~~ director of ~~the bureau of employment~~ job and family services determines that an employer is liable for unemployment compensation contributions or payments in lieu of contributions, interest, forfeitures, or fines totaling an amount that exceeds one thousand dollars which remain due and unpaid for thirty days or more and no part of the amount due is the subject of an appeal under this chapter, ~~he~~ the director may certify this determination to the director of budget and management. If the director of budget and management, upon receipt of the ~~administrator's~~ director of job and family services' determination, determines that the employer is a person who has provided goods or services to this state for which amounts are to be approved for payment pursuant to section 126.07 of the Revised Code, ~~he~~ the director of budget and management shall, in approving payments to the person under that section, withhold from amounts otherwise payable to the person, the amount of unemployment compensation contributions or payments in lieu of contributions, interest, forfeitures, or fines due and unpaid as certified by the ~~administrator~~ director of job and family services, and shall approve for payment to the ~~bureau~~ director of job and family services, the amount withheld.

(B) The ~~administrator~~ director of job and family services shall deposit amounts received under division (A) of this section into the clearing account

established pursuant to division (C) of section 4141.09 of the Revised Code.

Sec. 4141.24. (A)(1) The ~~administrator~~ director of ~~the bureau of employment~~ job and family services shall maintain a separate account for each employer and, except as otherwise provided in division (B) of section 4141.25 of the Revised Code respecting mutualized contributions, shall credit such employer's account with all the contributions, or payments in lieu of contributions, which the employer has paid on the employer's own behalf.

(2) If, as of the computation date, a contributory employer's account shows a negative balance computed as provided in division (A)(3) of section 4141.25 of the Revised Code, less any contributions due and unpaid on such date, which negative balance is in excess of the limitations imposed by divisions (A)(2)(a), (b), and (c) of this section and if the employer's account is otherwise eligible for the transfer, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess eligible for transfer shall be permanently transferred from the account of such employer and charged to the mutualized account provided in division (B) of section 4141.25 of the Revised Code.

(a) If as of any computation date, a contributory employer's account shows a negative balance in excess of ten per cent of the employer's average annual payroll, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess shall be transferred from the account as provided in this division. No contributory employer's account may have any excess transferred pursuant to division (A)(2)(a) of this section, unless the employer's account has shown a positive balance for at least two consecutive computation dates prior to the computation date with respect to which the transfer is proposed. Each time a transfer is made pursuant to division (A)(2)(a) of this section, the employer's account is ineligible for any additional transfers under that division, until the account shows a positive balance for at least two consecutive computation dates subsequent to the computation date of which the most recent transfer occurs pursuant to division (A)(2)(a), (b), or (c) of this section.

(b) If at the next computation date after the computation date at which a transfer from the account occurs pursuant to division (A)(2)(a) of this section, a contributory employer's account shows a negative balance in excess of fifteen per cent of the employer's average annual payroll, then before the employer's contribution rate is computed for the next succeeding contribution period an amount equal to the amount of the excess shall be

permanently transferred from the account as provided in this division.

(c) If at the next computation date subsequent to the computation date at which a transfer from a contributory employer's account occurs pursuant to division (A)(2)(b) of this section, the employer's account shows a negative balance in excess of twenty per cent of the employer's average annual payroll, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess shall be permanently transferred from the account as provided in this division.

(d) If no transfer occurs pursuant to division (A)(2)(b) or (c) of this section, the employer's account is ineligible for any additional transfers under division (A)(2) until the account requalifies for a transfer pursuant to division (A)(2)(a) of this section.

(B) Any employer may make voluntary payments in addition to the contributions required under this chapter, in accordance with rules established by the ~~administrator~~ director. Such payments shall be included in the employer's account as of the computation date, provided they are received by the ~~bureau of employment services~~ director by the thirty-first day of December following such computation date. Such voluntary payment, when accepted from an employer, will not be refunded in whole or in part. In determining whether an employer's account has a positive balance on two consecutive computation dates and is eligible for transfers under division (A)(2) of this section, the ~~administrator~~ director shall exclude any voluntary payments made subsequent to the last transfer made under division (A)(2) of this section.

(C) All contributions to the fund shall be pooled and available to pay benefits to any individual entitled to benefits irrespective of the source of such contributions.

(D)(1) For the purposes of this section and sections 4141.241 and 4141.242 of the Revised Code, an employer's account shall be charged only for benefits based on remuneration paid by such employer. Benefits paid to an eligible individual shall be charged against the account of each employer within the claimant's base period in the proportion to which wages attributable to each employer of the claimant bears to the claimant's total base period wages. Charges to the account of a base period employer with whom the claimant is employed part-time at the time the claimant's application for a determination of benefits rights is filed shall be charged to the mutualized account when all of the following conditions are met:

(a) The claimant also worked part-time for the employer during the base period of the claim.

(b) The claimant is unemployed due to loss of other employment.

(c) The employer is not a reimbursing employer under section 4141.241 or 4141.242 of the Revised Code.

(2) Notwithstanding division (D)(1) of this section, charges to the account of any employer, including any reimbursing employer, shall be charged to the mutualized account if it finally is determined by a court on appeal that the employer's account is not chargeable for the benefits.

(3) The ~~administrator~~ director shall notify each employer at least once each month of the benefits charged to the employer's account since the last preceding notice; except that for the purposes of sections 4141.241 and 4141.242 of the Revised Code which provides the billing of employers on a payment in lieu of a contribution basis, the ~~administrator~~ director may prescribe a quarterly or less frequent notice of benefits charged to the employer's account. Such notice will show a summary of the amount of benefits paid which were charged to the employer's account. This notice shall not be deemed a determination of the claimant's eligibility for benefits. Any employer so notified, however, may file within fifteen days after the mailing date of the notice, an exception to charges appearing on the notice on the grounds that such charges are not in accordance with this section. The ~~administrator~~ director shall promptly examine the exception to such charges and shall notify the employer of the ~~administrator's~~ director's decision thereon, which decision shall become final unless appealed to the unemployment compensation review commission in the manner provided in section 4141.26 of the Revised Code. For the purposes of this division, an exception is considered timely filed when it has been received as provided in division (I)(2) of section 4141.28 of the Revised Code.

(E) The ~~administrator~~ director shall terminate and close the account of any contributory employer who has been subject to this chapter if the enterprise for which the account was established is no longer in operation and it has had no payroll and its account has not been chargeable with benefits for a period of five consecutive years. The amount of any positive balance, computed as provided in division (A)(3) of section 4141.25 of the Revised Code, in an account closed and terminated as provided in this section shall be credited to the mutualized account as provided in division (B)(2)(b) of section 4141.25 of the Revised Code. The amount of any negative balance, computed as provided in division (A)(3) of section 4141.25 of the Revised Code, in an account closed and terminated as provided in this section shall be charged to the mutualized account as provided in division (B)(1)(b) of section 4141.25 of the Revised Code. The amount of any positive balance or negative balance, credited or charged to

the mutualized account after the termination and closing of an employer's account, shall not thereafter be considered in determining the contribution rate of such employer. The closing of an employer's account as provided in this division shall not relieve such employer from liability for any unpaid contributions or payment in lieu of contributions which are due for periods prior to such closing.

If the ~~administrator~~ director finds that a contributory employer's business is closed solely because of the entrance of one or more of the owners, officers, or partners, or the majority stockholder, into the armed forces of the United States, or any of its allies, or of the United Nations after July 1, 1950, such employer's account shall not be terminated and if the business is resumed within two years after the discharge or release of such persons from active duty in the armed forces, the employer's experience shall be deemed to have been continuous throughout such period. The reserve ratio of any such employer shall be the total contributions paid by such employer minus all benefits, including benefits paid to any individual during the period such employer was in the armed forces, based upon wages paid by the employer prior to the employer's entrance into the armed forces divided by the average of the employer's annual payrolls for the three most recent years during the whole of which the employer has been in business.

(F) If an employer transfers the employer's business or otherwise reorganizes such business, the successor in interest shall assume the resources and liabilities of such employer's account, and continue the payment of all contributions, or payments in lieu of contributions, due under this chapter. If an employer acquires substantially all of the assets in a trade or business of another employer, or a clearly segregable and identifiable portion of an employer's enterprise, and immediately after the acquisition employs in the employer's trade or business substantially the same individuals who immediately prior to the acquisition were employed in the trade or business or in the separate unit of such trade or business of such predecessor employer, then, upon application to the ~~administrator~~ director signed by the predecessor employer and the acquiring employer, the employer acquiring such enterprise is the successor in interest. In the case of a transfer of a portion of an employer's enterprise, only that part of the experience with unemployment compensation and payrolls that is directly attributable to the segregated and identifiable part shall be transferred and used in computing the contribution rate of the successor employer on the next computation date. The ~~administrator~~ director by rule may prescribe procedures for effecting transfers of experience as provided for in this section.

(G) For the purposes of this section, two or more employers who are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form are deemed to be a single employer if the ~~administrator~~ director finds that immediately after such change the employing enterprises of the predecessor employers are continued solely through a single employer as successor thereto, and immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employers, and the successor has assumed liability for all contributions required of the predecessor employers, and the consideration of such two or more employers as a single employer for the purposes of this section would not be inequitable.

(H) No rate of contribution less than two and seven-tenths per cent shall be permitted a contributory employer succeeding to the experience of another contributory employer pursuant to this section for any period subsequent to such succession, except in accordance with rules prescribed by the ~~administrator~~ director, which rules shall be consistent with federal requirements for additional credit allowance in section 3303 of the "Internal Revenue Code of 1954" and consistent with this chapter, except that such rules may establish a computation date for any such period different from the computation date generally prescribed by this chapter, and may define "calendar year" as meaning a twelve-consecutive-month period ending on the same day of the year as that on which such computation date occurs.

(I) The ~~administrator~~ director may prescribe rules for the establishment, maintenance, and dissolution of common contribution rates for two or more contributory employers, and in accordance with such rules and upon application by two or more employers shall establish such common rate to be computed by merging the several contribution rate factors of such employers for the purpose of establishing a common contribution rate applicable to all such employers.

Sec. 4141.241. (A)(1) Any nonprofit organization described in division (X) of section 4141.01 of the Revised Code, which becomes subject to this chapter on or after January 1, 1972, shall pay contributions under section 4141.25 of the Revised Code, unless it elects, in accordance with this division, to pay to the ~~administrator~~ director of ~~employment~~ job and family services for deposit in the unemployment compensation fund an amount in lieu of contributions equal to the amount of regular benefits plus one half of extended benefits paid from that fund that is attributable to service in the employ of the nonprofit organization to individuals whose service, during the base period of the claims, was within the effective period of such

election.

(2) Any nonprofit organization which becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of that calendar year and the next calendar year, beginning with the date on which such subjectivity begins, by filing a written notice of its election with the ~~administrator~~ director not later than thirty days immediately following the date of the determination of such subjectivity.

(3) Any nonprofit organization which makes an election in accordance with this division will continue to be liable for payments in lieu of contributions for the period described in this division and until it files with the ~~administrator~~ director a written notice terminating its election. The notice shall be filed not later than thirty days prior to the beginning of the calendar year for which the termination is to become effective.

(4) Any nonprofit organization which has been paying contributions for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the ~~administrator~~ director, not later than thirty days prior to the beginning of any calendar year, a written notice of election to become liable for payments in lieu of contributions. The election shall not be terminable by the organization during that calendar year and the next calendar year.

(5) The ~~administrator~~ director, in accordance with any rules the ~~administrator~~ director prescribes, shall notify each nonprofit organization of any determination which the ~~administrator~~ director may make of its status as an employer and of the effective date of any election which it makes and of any termination of the election. Any determinations shall be subject to reconsideration, appeal, and review in accordance with section 4141.26 of the Revised Code.

(B) Except as provided in division (I) of section 4141.29 of the Revised Code, benefits based on service with a nonprofit organization granted a reimbursing status under this section shall be payable in the same amount, on the same terms, and subject to the same conditions, as benefits payable on the basis of other service subject to this chapter. Payments in lieu of contributions shall be made in accordance with this division and division (D) of section 4141.24 of the Revised Code.

(1)(a) At the end of each calendar quarter, or at the end of any other period as determined by the ~~administrator~~ director under division (D)(3) of section 4141.24 of the Revised Code, the ~~administrator~~ director shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the

full amount of regular benefits plus one half of the amount of extended benefits paid during such quarter or other prescribed period which is attributable to service in the employ of such organization.

(b) In the computation of the amount of benefits to be charged to employers liable for payments in lieu of contributions, all benefits attributable to service described in division (B)(1)(a) of this section shall be computed and charged to such organization as described in division (D) of section 4141.24 of the Revised Code, and, except as provided in division (D)(2) of section 4141.24 of the Revised Code, no portion of the amount may be charged to the mutualized account established by division (B) of section 4141.25 of the Revised Code.

(c) The ~~administrator~~ director may prescribe regulations under which organizations, which have elected to make payments in lieu of contributions may request permission to make such payments in equal installments throughout the year with an adjustment at the end of the year for any excess or shortage of the amount of such installment payments compared with the total amount of benefits actually charged the organization's account during the year. In making any adjustment, where the total installment payments are less than the actual benefits charged, the organization shall be liable for payment of the unpaid balance in accordance with division (B)(2) of this section. If the total installment payments exceed the actual benefits charged, all or part of the excess may, at the discretion of the ~~administrator~~ director, be refunded or retained in the fund as part of the payments which may be required in the next year.

(2) Payment of any bill rendered under division (B)(1) of this section shall be made not later than thirty days after the bill was mailed to the last known address of the organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with division (B)(4) of this section.

(3) Payments made by an organization under this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(4) An organization may file an application for review and redetermination of the amounts appearing on any bill rendered to such organization under division (B)(1) of this section. The application shall be filed and determined under division (D)(3) of section 4141.24 of the Revised Code.

(5) Past-due payments of amounts in lieu of contributions shall be subject to the same interest rates and collection procedures that apply to past-due contributions under sections 4141.23 and 4141.27 of the Revised

Code. In case of failure to file a required quarterly report within the time prescribed by the ~~administrator~~ director, the nonprofit organization shall be subject to a forfeiture pursuant to section 4141.20 of the Revised Code for each quarterly report that is not timely filed.

All interest and forfeitures collected under this division shall be paid into the unemployment compensation special administrative fund as provided in section 4141.11 of the Revised Code.

(6) All payments in lieu of contributions collected under this section shall be paid into the unemployment compensation fund as provided in section 4141.09 of the Revised Code. Any refunds of such payments shall be paid from the unemployment compensation fund, as provided in section 4141.09 of the Revised Code.

(C)(1) Any nonprofit organization, or group of such organizations approved under division (D) of this section, that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election, to execute and file with the ~~administrator~~ director a surety bond approved by the ~~administrator~~ director or it may elect instead to deposit with the ~~administrator~~ director approved municipal or other bonds, or approved securities, or a combination thereof, or other forms of collateral security approved by the ~~administrator~~ director.

(2)(a) The amount of the bond or deposit required shall be equal to three per cent of the organization's wages paid for employment as defined in section 4141.01 of the Revised Code that would have been taxable had the organization been a subject employer during the four calendar quarters immediately preceding the effective date of the election, or the amount established by the ~~administrator~~ director within the limitation provided in division (C)(2)(d) of this section, whichever is the less. The effective date of the amount of the bond or other collateral security required after the employer initially is determined by the ~~administrator~~ director to be liable for payments in lieu of contributions shall be the renewal date in the case of a bond or the biennial anniversary of the effective date of election in the case of deposit of securities or other forms of collateral security approved by the ~~administrator~~ director, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the ~~administrator~~ director under regulations prescribed for this purpose.

(b) Any bond or other form of collateral security approved by the ~~administrator~~ director deposited under this division shall be in force for a period of not less than two calendar years and shall be renewed with the approval of the ~~administrator~~ director, at such times as the ~~administrator~~

rector may prescribe, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The ~~administrator~~ director shall require adjustments to be made in a previously filed bond or other form of collateral security as the ~~administrator~~ director considers appropriate. If the bond or other form of collateral security is to be increased, the adjusted bond or collateral security shall be filed by the organization within thirty days of the date that notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond or collateral security to pay the full amount of payments in lieu of contributions when due, together with any applicable interest provided for in division (B)(5) of this section, shall render the surety liable on the bond or collateral security to the extent of the bond or collateral security, as though the surety was the organization.

(c) Any securities accepted in lieu of surety bond by the ~~administrator~~ director shall be deposited with the treasurer of state who shall have custody thereof and retain the same in the treasurer of state's possession, or release them, according to conditions prescribed by regulations of the ~~administrator~~ director. Income from the securities, held in custody by the treasurer of state, shall accrue to the benefit of the depositor and shall be distributed to the depositor in the absence of any notification from the ~~administrator~~ director that the depositor is in default on any payment owed to the ~~bureau of employment services~~ director. The ~~administrator~~ director may require the sale of any such bonds to the extent necessary to satisfy any unpaid payments in lieu of contributions, together with any applicable interest or forfeitures provided for in division (B)(5) of this section. The ~~administrator~~ director shall require the employer within thirty days following any sale of deposited securities, under this subdivision, to deposit additional securities, surety bond, or combination of both, to make whole the employer's security deposit at the approved level. Any cash remaining from the sale of such securities may, at the discretion of the ~~administrator~~ director, be refunded in whole or in part, or be paid into the unemployment compensation fund to cover future payments required of the organization.

(d) The required bond or deposit for any nonprofit organization, or group of such organizations approved by the ~~administrator~~ director under division (D) of this section, that is determined by the ~~administrator~~ director to be liable for payments in lieu of contributions effective beginning on and after January 1, 1996, but prior to January 1, 1998, and the required bond or deposit for any renewed elections under division (C)(2)(b) of this section effective during that period shall not exceed one million two hundred fifty thousand dollars. The required bond or deposit for any nonprofit

anization, or group of such organizations approved by the ~~administrator~~ director under division (D) of this section, that is determined to be liable for payments in lieu of contributions effective on and after January 1, 1998, and the required bond or deposit for any renewed elections effective on and after January 1, 1998, shall not exceed two million dollars.

(3) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to make whole the amount of a previously made deposit, as provided under this division, the ~~administrator~~ director may terminate the organization's election to make payments in lieu of contributions effective for the quarter following such failure and the termination shall continue for not less than the remainder of that calendar year and the next calendar year, beginning with the quarter in which the termination becomes effective; except that the ~~administrator~~ director may extend for good cause the applicable filing, deposit, or adjustment period by not more than thirty days.

(D)(1) Two or more nonprofit organizations that have become liable for payments in lieu of contributions, in accordance with division (A) of this section, may file a joint application to the ~~administrator~~ director for the establishment of the group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of those employers. Notwithstanding division (E) of section 4141.242 of the Revised Code, hospitals operated by this state or a political subdivision may participate in a group account with nonprofit organizations under the procedures set forth in this section. Each application shall identify and authorize a group representative to act as the group's agent for the purposes of this division.

(2) Upon the ~~administrator's~~ director's approval of the application, the ~~administrator~~ director shall establish a group account for the employers effective as of the beginning of the calendar quarter in which the ~~administrator~~ director receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated by the ~~administrator~~ director or upon application by the group.

(3) Upon establishment of the account, each member of the group shall be liable, in the event that the group representative fails to pay any bill issued to it pursuant to division (B) of this section, for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by the member in the quarter bear to

the total wages paid during the quarter for service performed in the employ of all members of the group.

(4) The ~~administrator~~ director shall adopt regulations as considered necessary with respect to the following: applications for establishment, bonding, maintenance, and termination of group accounts that are authorized by this section; addition of new members to and withdrawal of active members from such accounts; and the determination of the amounts that are payable under this division by the group representative and in the event of default in payment by the group representative, members of the group, and the time and manner of payments.

Sec. 4141.242. (A) On or after January 1, 1978, the state, its instrumentalities, its political subdivisions and their instrumentalities, and any subdivision thereof as defined in division (H) of this section and described in this section as public entities, shall pay to the ~~administrator~~ director of ~~the bureau of employment~~ job and family services for deposit in the unemployment compensation fund an amount in lieu of contributions equal to the full amount of regular benefits, and the amount of extended benefits chargeable under the terms of section 4141.301 of the Revised Code, from that fund that is attributable to service in the employ of the public entity, under the same terms and conditions as required of nonprofit organizations electing reimbursing status under section 4141.241 of the Revised Code; unless the public entity elects to pay contributions under section 4141.25 of the Revised Code, under the following conditions:

(1) Any public entity may elect, after December 31, 1977, to become liable for contribution payments, as set forth in section 4141.25 of the Revised Code, for a period of not less than two calendar years by filing with the ~~administrator~~ director a written notice of its election.

(2) The effective date of the election to pay contributions shall be the first day of the first calendar quarter after the election is approved by the ~~administrator~~ director and which is at least thirty days after the election notice was received.

(B) No surety bond shall be required of any reimbursing public entity, as is required of nonprofit organizations under division (C) of section 4141.241 of the Revised Code. Any public entity, either reimbursing or contributory, shall, if it becomes delinquent in the payment of reimbursements, contributions, forfeiture, or interest, be subject to the same terms and the same collection procedures as are set forth for reimbursing employers under division (B) of section 4141.241 of the Revised Code; and as set forth for contributory employers under this chapter.

(C) The state of Ohio account and the accounts and subaccounts of its

instrumentalities, as defined in divisions (H)(1)(a) and (b) of this section, shall be administered by the director of administrative services, in coordination with the ~~administrator~~ director of job and family services in accordance with the terms and conditions of this chapter, regarding the determination and payment of benefits attributable to service with the state or its instrumentalities. In this capacity, the director of administrative services shall maintain any necessary accounts and subaccounts for the various agencies and departments of the state and, through the director of budget and management, apportion among the various state entities, and collect, the costs of unemployment benefits, as billed by the ~~bureau~~ director of ~~employment~~ job and family services, except that any of the individual agencies and departments for which such accounts and subaccounts are maintained may, with the concurrence of the director of administrative services and the ~~administrator~~ director of job and family services, be designated to receive billings directly from the ~~administrator~~ director of job and family services and make payment in response to such billings directly to the ~~administrator~~ director of job and family services. Any moneys paid directly under this division and collected by the director of administrative services shall be forwarded to the ~~administrator~~ director of job and family services for deposit in the fund established by division (A) of section 4141.09 of the Revised Code, and shall be credited to the accounts of the state and its instrumentalities.

(D) The accounts of the various local subdivisions, and their instrumentalities shall be administered by appropriate officials, as designated to the ~~administrator~~ director of job and family services when the accounts are established.

(E) Two or more reimbursing public entities may file a joint application to the ~~administrator~~ director of job and family services for the establishment of a group account, for the purpose of sharing the cost of benefits attributable to service with the public entities, under the conditions provided for nonprofit organizations under division (D) of section 4141.241 of the Revised Code.

(F) Two or more public entities that have elected to pay contributions may apply for a common rate under division (I) of section 4141.24 of the Revised Code. Clear authority, resolution, or ordinance for combining must be presented with the application requesting the common rate status. Applications must be filed by the first day of October of any year, to be effective for the following calendar year.

(G) A public entity, either reimbursing or one electing to pay contributions, shall be liable for the full amount of any regular benefits paid

that are attributable to service in the employ of the public entity during the base period of a benefit claim, and any extended benefits paid based on service as provided in divisions (G)(1)(b) and (1)(c) of section 4141.301 of the Revised Code. Where a public entity has changed from a reimbursing status to a contributory status, during the base period of the benefit claim, then the benefit charges attributable to service with the reimbursement account shall be charged to the reimbursement account; and, the charges attributable to the contributory account shall be charged to that account. The same rule shall be applicable to situations where a contributory public entity has changed to a reimbursing status during the base period of a benefit claim.

(H)(1) For the purposes of establishing employer status and accounts for the state and its instrumentalities, its political subdivisions and their instrumentalities, a separate account shall be established and maintained for:

(a) The state, including therein the legislative and executive branches, as defined in Articles II and III of the Ohio Constitution, and the Ohio supreme court;

(b) Each separate instrumentality of the state;

(c) Each political subdivision of the state, including therein the legislative, executive, and judicial functions performed for the subdivision;

(d) Each separate instrumentality of the political subdivision;

(e) Any jointly owned instrumentality of more than one of the public entities described in this division, or any jointly owned instrumentality of any such public entities and one or more other states or political subdivisions thereof.

(2) For the purposes of this chapter, the separate accounts, established by this division, shall be described as "public entity accounts."

(I) The ~~administrator~~ director of job and family services, in accordance with any rules that the ~~administrator~~ director may prescribe, shall notify each public entity of any determination which the ~~administrator~~ director may make of its status as an employer and of the effective date of any election which it makes and of any termination of the election. Any determinations are subject to reconsideration, appeal, and review in accordance with sections 4141.26 and 4141.28 of the Revised Code.

Sec. 4141.25. (A) The ~~administrator~~ director of ~~the bureau of employment~~ job and family services shall determine as of each computation date the contribution rate of each contributing employer subject to this chapter for the next succeeding contribution period. The ~~administrator~~ director shall determine a standard rate of contribution or an experience rate for each contributing employer. Once a rate of contribution has been

established under this section for a contribution period, except as provided in division (D) of section 4141.26 of the Revised Code, that rate shall remain effective throughout such contribution period. The rate of contribution shall be determined in accordance with the following requirements:

(1) An employer whose experience does not meet the terms of division (A)(2) of this section shall be assigned a standard rate of contribution. Effective for contribution periods beginning on and after January 1, 1998, an employer's standard rate of contribution shall be a rate of two and seven-tenths per cent, except that the rate for employers engaged in the construction industry shall be the average contribution rate computed for the construction industry or a rate of two and seven-tenths per cent, whichever is greater. The standard rate set forth in this division shall be applicable to a nonprofit organization whose election to make payments in lieu of contributions is voluntarily terminated or canceled by the ~~administrator~~ director under section 4141.241 of the Revised Code, and thereafter pays contributions as required by this section. If such nonprofit organization had been a contributory employer prior to its election to make payments in lieu of contributions, then any prior balance in the contributory account shall become part of the reactivated account.

As used in division (A) of this section, "the average contribution rate computed for the construction industry" means the most recent annual average rate attributable to the construction industry as prescribed by the ~~administrator~~ director.

(2) A contributing employer subject to this chapter shall qualify for an experience rate only if the employer had no more than three consecutive quarters without employment subject to this chapter during the first seven of the eight completed calendar quarters immediately prior to the computation date. Upon meeting the qualifying requirements provided in division (A)(2) of this section, the ~~administrator~~ director shall calculate the total credits to each employer's account consisting of the contributions other than mutualized contributions including all contributions paid prior to the computation date for all past periods plus:

(a) The contributions owing on the computation date that are paid within thirty days after the computation date, and credited to the employer's account;

(b) All voluntary contributions paid by an employer pursuant to division (B) of section 4141.24 of the Revised Code.

(3) The ~~administrator~~ director also shall determine the benefits which are chargeable to each employer's account and which were paid prior to the

computation date with respect to weeks of unemployment ending prior to the computation date. The ~~administrator~~ director then shall determine the positive or negative balance of each employer's account by calculating the excess of such contributions and interest over the benefits chargeable, or the excess of such benefits over such contributions and interest. Any resulting negative balance then shall be subject to adjustment as provided in division (A)(2) of section 4141.24 of the Revised Code after which the positive or negative balance shall be expressed in terms of a percentage of the employer's average annual payroll. If the total standing to the credit of an employer's account exceeds the total charges, as provided in this division, the employer has a positive balance and if such charges exceed such credits the employer has a negative balance. Each employer's contribution rate shall then be determined in accordance with the following schedule:

Contribution Rate Schedule

If, as of the computation date the contribution rate balance of an employer's account as a percentage of the employer's average annual payroll is		The employer's contribution rate for the next succeeding contribution period shall be
(a) A negative balance of:		
20.0% or more		6.5%
19.0% but less than	20.0%	6.4%
17.0% but less than	19.0%	6.3%
15.0% but less than	17.0%	6.2%
13.0% but less than	15.0%	6.1%
11.0% but less than	13.0%	6.0%
9.0% but less than	11.0%	5.9%
5.0% but less than	9.0%	5.7%
4.0% but less than	5.0%	5.5%
3.0% but less than	4.0%	5.3%
2.0% but less than	3.0%	5.1%
1.0% but less than	2.0%	4.9%
more than 0.0% but less than	1.0%	4.8%
(b) A 0.0% or a positive balance of less than	1.0%	4.7%
(c) A positive balance of:		
1.0% or more, but less than	1.5%	4.6%
1.5% or more, but less than	2.0%	4.5%
2.0% or more, but less than	2.5%	4.3%
2.5% or more, but less than	3.0%	4.0%

3.0% or more, but less than	3.5%	3.8%
3.5% or more, but less than	4.0%	3.5%
4.0% or more, but less than	4.5%	3.3%
4.5% or more, but less than	5.0%	3.0%
5.0% or more, but less than	5.5%	2.8%
5.5% or more, but less than	6.0%	2.5%
6.0% or more, but less than	6.5%	2.2%
6.5% or more, but less than	7.0%	2.0%
7.0% or more, but less than	7.5%	1.8%
7.5% or more, but less than	8.0%	1.6%
8.0% or more, but less than	8.5%	1.4%
8.5% or more, but less than	9.0%	1.3%
9.0% or more, but less than	9.5%	1.1%
9.5% or more, but less than	10.0%	1.0%
10.0% or more, but less than	10.5%	.9%
10.5% or more, but less than	11.0%	.7%
11.0% or more, but less than	11.5%	.6%
11.5% or more, but less than	12.0%	.5%
12.0% or more, but less than	12.5%	.4%
12.5% or more, but less than	13.0%	.3%
13.0% or more, but less than	14.0%	.2%
14.0% or more		.1%

(d) The contribution rates shall be as specified in divisions (a), (b), and (c) of the contribution rate schedule except that notwithstanding the amendments made to division (a) of the contribution rate schedule in this section, if, as of the computation date: for 1991, the negative balance is 5.0% or more, the contribution rate shall be 5.7%; for 1992, if the negative balance is 11.0% or more, the contribution rate shall be 6.0%; and for 1993, if the negative balance is 17.0% or more, the contribution rate shall be 6.3%. Thereafter, the contribution rates shall be as specified in the contribution rate schedule.

(B)(1) The ~~administrator~~ director shall establish and maintain a separate account to be known as the "mutualized account." As of each computation date there shall be charged to this account:

(a) As provided in division (A)(2) of section 4141.24 of the Revised Code, an amount equal to the sum of that portion of the negative balances of employer accounts which exceeds the applicable limitations as such balances are computed under division (A) of this section as of such date;

(b) An amount equal to the sum of the negative balances remaining in employer accounts which have been closed during the year immediately

preceding such computation date pursuant to division (E) of section 4141.24 of the Revised Code;

(c) An amount equal to the sum of all benefits improperly paid preceding such computation date which are not recovered but which are not charged to an employer's account, or which after being charged, are credited back to an employer's account;

(d) An amount equal to the sum of any other benefits paid preceding such computation date which, under this chapter, are not chargeable to an employer's account;

(e) An amount equal to the sum of any refunds made during the year immediately preceding such computation date of erroneously collected mutualized contributions required by this division which were previously credited to this account;

(f) An amount equal to the sum of any repayments made to the federal government during the year immediately preceding such computation date of amounts which may have been advanced by it to the unemployment compensation fund under section 1201 of the "Social Security Act," 49 Stat. 648 (1935), 42 U.S.C. 301;

(g) Any amounts appropriated by the general assembly out of funds paid by the federal government, under section 903 of the "Social Security Act," to the account of this state in the federal unemployment trust fund.

(2) As of every computation date there shall be credited to the mutualized account provided for in this division:

(a) The proceeds of the mutualized contributions as provided in this division;

(b) Any positive balances remaining in employer accounts which are closed as provided in division (E) of section 4141.24 of the Revised Code;

(c) Any benefits improperly paid which are recovered but which cannot be credited to an employer's account;

(d) All amounts which may be paid by the federal government under section 903 of the "Social Security Act" to the account of this state in the federal unemployment trust fund;

(e) Amounts advanced by the federal government to the account of this state in the federal unemployment trust fund under section 1201 of the "Social Security Act" to the extent such advances have been repaid to or recovered by the federal government;

(f) Interest credited to the Ohio unemployment trust fund as deposited with the secretary of the treasury of the United States.

(3) Annually, as of the computation date, the ~~administrator~~ director shall determine the total credits and charges made to the mutualized account

during the preceding twelve months and the overall condition of the account. The ~~administrator~~ director shall issue an annual statement containing this information and such other information as the ~~administrator~~ director deems pertinent, including a report that the sum of the balances in the mutualized account, employers' accounts, and any subsidiary accounts equal the balance in the state's unemployment trust fund maintained under section 904 of the "Social Security Act."

(4) As used in this division:

(a) "Fund as of the computation date" means as of any computation date, the aggregate amount of the unemployment compensation fund, including all contributions owing on the computation date that are paid within thirty days thereafter, all payments in lieu of contributions that are paid within sixty days after the computation date, all reimbursements of the federal share of extended benefits described in section 4141.301 of the Revised Code that are owing on the computation date, and all interest earned by the fund and received on or before the computation date from the federal government.

(b) "Minimum safe level" means an amount equal to two standard deviations above the average of the adjusted annual average unemployment compensation benefit payment from 1970 to the most recent calendar year prior to the computation date, as determined by the ~~administrator~~ director pursuant to division (B)(4)(b) of this section. To determine the adjusted annual payment of unemployment compensation benefits, the ~~administrator~~ director first shall multiply the number of weeks compensated during each calendar year beginning with 1970 by the most recent annual average weekly unemployment compensation benefit payment and then compute the average and standard deviation of the resultant products.

(c) "Annual average weekly unemployment compensation benefit payment" means the amount resulting from dividing the unemployment compensation benefits paid from the benefit account maintained within the unemployment compensation fund pursuant to section 4141.09 of the Revised Code, by the number of weeks compensated during the same time period.

(5) If, as of any computation date, the charges to the mutualized account during the entire period subsequent to the computation date, July 1, 1966, made in accordance with division (B)(1) of this section, exceed the credits to such account including mutualized contributions during such period, made in accordance with division (B)(2) of this section, the amount of such excess charges shall be recovered during the next contribution period. To recover such amount, the ~~administrator~~ director shall compute the percentage ratio

of such excess charges to the average annual payroll of all employers eligible for an experience rate under division (A) of this section. The percentage so determined shall be computed to the nearest tenth of one per cent and shall be an additional contribution rate to be applied to the wages paid by each employer whose rate is computed under the provisions of division (A) of this section in the contribution period next following such computation date, but such percentage shall not exceed five-tenths of one per cent; however, when there are any excess charges in the mutualized account, as computed in this division, then the mutualized contribution rate shall not be less than one-tenth of one per cent.

(6) If the fund as of the computation date is above or below minimum safe level, the contribution rates provided for in each classification in division (A)(3) of this section for the next contribution period shall be adjusted as follows:

(a) If the fund is thirty per cent or more above minimum safe level, the contribution rates provided in division (A)(3) of this section shall be decreased two-tenths of one per cent.

(b) If the fund is more than fifteen per cent but less than thirty per cent above minimum safe level, the contribution rates provided in division (A)(3) of this section shall be decreased one-tenth of one per cent.

(c) If the fund is more than fifteen per cent but less than thirty per cent below minimum safe level, the contribution rates of all employers shall be increased twenty-five one-thousandths of one per cent plus a per cent increase calculated and rounded pursuant to division (B)(6)(g) of this section.

(d) If the fund is more than thirty per cent but less than forty-five per cent below minimum safe level, the contribution rates of all employers shall be increased seventy-five one-thousandths of one per cent plus a per cent increase calculated and rounded pursuant to division (B)(6)(g) of this section.

(e) If the fund is more than forty-five per cent but less than sixty per cent below minimum safe level, the contribution rates of all employers shall be increased one-eighth of one per cent plus a per cent increase calculated and rounded pursuant to division (B)(6)(g) of this section.

(f) If the fund is sixty per cent or more below minimum safe level, the contribution rates of all employers shall be increased two-tenths of one per cent plus a per cent increase calculated and rounded pursuant to division (B)(6)(g) of this section.

(g) The additional per cent increase in contribution rates required by divisions (B)(6)(c), (d), (e), and (f) of this section that is payable by each

individual employer shall be calculated in the following manner. The flat rate increase required by a particular division shall be multiplied by three and the product divided by the average experienced-rated contribution rate for all employers as determined by the ~~administrator~~ director for the most recent calendar year. The resulting quotient shall be multiplied by an individual employer's contribution rate determined pursuant to division (A)(3) of this section. The resulting product shall be rounded to the nearest tenth of one per cent, added to the flat rate increase required by division (B)(6)(c), (d), (e), or (f) of this section, as appropriate, and the total shall be rounded to the nearest tenth of one per cent. As used in division (B)(6)(g) of this section, the "average experienced-rated contribution rate" means the most recent annual average contribution rate reported by the ~~bureau~~ director contained in report RS 203.2 less the mutualized and minimum safe level contribution rates included in such rate.

(h) If any of the increased contribution rates of division (B)(6)(c), (d), (e), or (f) of this section are imposed, the rate shall remain in effect for the calendar year in which it is imposed and for each calendar year thereafter until the ~~administrator~~ director determines as of the computation date for calendar year 1991 and as of the computation date for any calendar year thereafter pursuant to this section, that the level of the unemployment compensation fund equals or exceeds the minimum safe level as defined in division (B)(4)(b) of this section. Nothing in division (B)(6)(h) of this section shall be construed as restricting the imposition of the increased contribution rates provided in divisions (B)(6)(c), (d), (e), and (f) of this section if the fund falls below the percentage of the minimum safe level as specified in those divisions.

(7) The additional contributions required by division (B)(5) of this section shall be credited to the mutualized account. The additional contributions required by division (B)(6) of this section shall be credited fifty per cent to individual employer accounts and fifty per cent to the mutualized account.

(C) If an employer makes a payment of contributions which is less than the full amount required by divisions (A) and (B) of this section, such partial payment shall be applied first against the mutualized contributions required under division (B) of this section, including the additional contributions required under division (B)(6) of this section. Any remaining partial payment shall be credited to the employer's individual account.

(D) Whenever there are any increases in contributions resulting from an increase in wages subject to contributions as defined in division (G) of section 4141.01 of the Revised Code, or from an increase in the mutualized

rate of contributions provided in division (B) of this section, or from a revision of the contribution rate schedule provided in division (A) of this section, except for that portion of the increase attributable to a change in the positive or negative balance in an employer's account, which increases become effective after a contract for the construction of real property, as defined in section 5701.02 of the Revised Code, has been entered into, the contractee upon written notice by a prime contractor shall reimburse the contractor for all increased contributions paid by the prime contractor or by subcontractors upon wages for services performed under the contract. Upon reimbursement by the contractee to the prime contractor, the prime contractor shall reimburse each subcontractor for the increased contributions.

(E) Effective only for the contribution period beginning on January 1, 1996, and ending on December 31, 1996, mutualized contributions collected or received by the ~~administrator~~ director pursuant to division (B)(5) of this section and amounts credited to the mutualized account pursuant to division (B)(7) of this section shall be deposited into or credited to the unemployment compensation benefit reserve fund that is created under division (F) of this section, except that amounts collected, received, or credited in excess of two hundred million dollars shall be deposited into or credited to the unemployment trust fund established pursuant to section 4141.09 of the Revised Code.

(F) The state unemployment compensation benefit reserve fund is hereby created as a trust fund in the custody of the treasurer of state and shall not be part of the state treasury. The fund shall consist of all moneys collected or received as mutualized contributions pursuant to division (B)(5) of this section and amounts credited to the mutualized account pursuant to division (B)(7) of this section as provided by division (E) of this section. All moneys in the fund shall be used solely to pay unemployment compensation benefits in the event that funds are no longer available for that purpose from the unemployment trust fund established pursuant to section 4141.09 of the Revised Code.

(G) The balance in the unemployment compensation benefit reserve fund remaining at the end of the contribution period beginning January 1, 2000, and any mutualized contribution amounts for the contribution period beginning on January 1, 1996, that may be received after December 31, 2000, shall be deposited into the unemployment trust fund established pursuant to section 4141.09 of the Revised Code. Income earned on moneys in the state unemployment compensation benefit reserve fund shall be available for use by the ~~administrator of the bureau of employment services~~

director only for the purposes described in division (I) of this section, and shall not be used for any other purpose.

(H) The unemployment compensation benefit reserve fund balance shall be added to the unemployment trust fund balance in determining the minimum safe level tax to be imposed pursuant to division (B) of this section and shall be included in the mutualized account balance for the purpose of determining the mutualized contribution rate pursuant to division (B)(5) of this section.

(I) All income earned on moneys in the unemployment compensation benefit reserve fund from the investment of the fund by the treasurer of state shall accrue to the ~~bureau~~ department of ~~employment~~ job and family services automation administration fund, which is hereby established in the state treasury. Moneys within the automation administration fund shall be used to meet the costs related to automation of the ~~bureau~~ department and the administrative costs related to collecting and accounting for unemployment compensation benefit reserve fund revenue. Any funds remaining in the automation administration fund upon completion of the ~~bureau's~~ department's automation projects that are funded by that fund shall be deposited into the unemployment trust fund established pursuant to section 4141.09 of the Revised Code.

(J) The ~~administrator~~ director shall prepare and submit monthly reports to the unemployment compensation advisory commission with respect to the status of efforts to collect and account for unemployment compensation benefit reserve fund revenue and the costs related to collecting and accounting for that revenue. The ~~administrator~~ director shall obtain approval from the unemployment compensation advisory commission for expenditure of funds from the ~~bureau~~ department of ~~employment~~ job and family services automation administration fund. Funds may be approved for expenditure for purposes set forth in division (I) of this section only to the extent that federal or other funds are not available.

Sec. 4141.26. (A) As soon as practicable after the first day of September but not later than the first day of December of each year, the ~~administrator~~ director of ~~the bureau of employment~~ job and family services shall notify each employer of the employer's contribution rate as determined for the next ensuing contribution period pursuant to section 4141.25 of the Revised Code provided the employer has furnished the ~~bureau of employment services~~ director, by the first day of September following the computation date, with the wage information for all past periods necessary for the computation of the contribution rate.

(B)(1) In the case of contribution rates applicable to contribution

periods beginning on or before December 31, 1992, if the employer has not furnished the necessary wage information, the employer's contribution rate for such contribution period shall be the maximum rate provided in such section, except that, if the employer files the necessary wage information by the end of the thirtieth day following the issuance of the maximum rate notice, the employer's rate then shall be computed as provided in section 4141.25 of the Revised Code.

(2) In the case of contribution rates applicable to contribution periods beginning on or after January 1, 1993, and before January 1, 1995, if the employer has not furnished the necessary wage information, the employer's contribution rate for such contribution period shall not be computed as provided in section 4141.25 of the Revised Code, but instead shall be assigned at the maximum rate provided in that section, with the following exceptions:

(a) If the employer files the necessary wage information by December thirty-first of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate then shall be computed as provided in division (A) of section 4141.25 of the Revised Code.

(b) The ~~administrator~~ director may waive the maximum contribution rate assigned pursuant to division (B)(2) of this section if the employer meets all of the following conditions within thirty days after the ~~administrator~~ director mails the notice of the maximum contribution rate assigned pursuant to division (B)(2) of this section:

(i) Provides to the ~~administrator~~ director a written request for waiver of the maximum contribution rate, clearly demonstrating that failure to timely furnish the wage information as required by division (A) of this section was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer shall not be considered beyond the control of the employer or the employer's agent;

(ii) Furnishes to the ~~administrator~~ director all of the wage information as required by division (A) of this section and all quarterly reports due pursuant to section 4141.20 of the Revised Code;

(iii) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

(3) In the case of contribution rates applicable to contribution periods beginning on or after January 1, 1995, if the employer has not timely furnished the necessary wage information as required by division (A) of this section, the employer's contribution rate for such contribution period shall

not be computed as provided in section 4141.25 of the Revised Code, but instead shall be assigned a contribution rate equal to one hundred twenty-five per cent of the maximum rate provided in that section, with the following exceptions:

(a) If the employer files the necessary wage information by the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate shall be computed as provided in division (A) of section 4141.25 of the Revised Code;

(b) The ~~administrator~~ director may waive the contribution rate assigned pursuant to division (B)(3) of this section if the employer meets all of the following conditions within thirty days after the ~~administrator~~ director mails to the employer the notice of the contribution rate assigned pursuant to division (B)(3) of this section:

(i) Provides to the ~~administrator~~ director a written request for waiver of the contribution rate, clearly demonstrating that the failure to timely furnish the wage information as required by division (A) of this section was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer shall not be considered to be beyond the control of the employer or the employer's agent;

(ii) Furnishes to the ~~administrator~~ director all of the wage information as required by division (A) of this section and all quarterly reports due pursuant to section 4141.20 of the Revised Code;

(iii) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

(c) The ~~administrator~~ director shall revise the contribution rate of an employer who has not timely furnished the necessary wage information as required by division (A) of this section, who has been assigned a contribution rate pursuant to division (B)(3) of this section, and who does not meet the requirements of division (B)(3)(a) or (b) of this section, if the employer furnishes the necessary wage information to the ~~administrator~~ director within thirty-six months following the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective. The revised rate under division (B)(3)(c) of this section shall be equal to one hundred twenty per cent of the contribution rate that would have resulted if the employer had timely furnished the necessary wage information under division (A) of this section.

(4) The ~~administrator~~ director shall deny an employer's request for a waiver of the requirement that the employer's contribution rate be the

maximum rate under division (B)(2)(b) of this section, or be the rate assigned under division (B)(3)(b) of this section, or for a revision of the employer's rate as provided in division (B)(3)(c) of this section if the ~~administrator~~ director finds that the employer's failure to timely file the necessary wage information was due to an attempt to evade payment.

(5) The ~~administrator~~ director shall round the contribution rates the ~~administrator~~ director determines under this division to the nearest tenth of one per cent.

(C) If, as a result of the computation pursuant to division (B) of this section, the employer's account shows a negative balance in excess of the applicable limitations, in that computation, the excess above applicable limitations shall not be transferred from the account as provided in division (A)(2) of section 4141.24 of the Revised Code.

(D) The rate determined pursuant to this section and section 4141.25 of the Revised Code shall become binding upon the employer unless:

(1) The employer makes a voluntary contribution as provided in division (B) of section 4141.24 of the Revised Code, whereupon the ~~administrator~~ director shall issue the employer a revised contribution rate notice if the contribution changes the employer's rate; or

(2) Within thirty days after the mailing of notice of the employer's rate or a revision of it to the employer's last known address or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application with the ~~administrator~~ director for reconsideration of the ~~administrator's~~ director's determination of such rate setting forth reasons for such request. The ~~administrator~~ director shall promptly examine the application for reconsideration and shall notify the employer of the ~~administrator's~~ director's reconsidered decision, which shall become final unless, within thirty days after the mailing of such notice by certified mail, return receipt requested, the employer files an application for review of such decision with the unemployment compensation review commission. The commission shall promptly examine the application for review of the ~~administrator's~~ director's decision and shall grant such employer an opportunity for a fair hearing. The proceeding at the hearing before the commission shall be recorded in the means and manner prescribed by the commission. For the purposes of this division, the review is considered timely filed when it has been received as provided in division (I)(2) of section 4141.28 of the Revised Code.

The employer and the ~~administrator~~ director shall be promptly notified of the commission's decision, which shall become final unless, within thirty days after the mailing of notice of it to the employer's last known address by

certified mail, return receipt requested, or, in the absence of mailing, within thirty days after delivery of such notice, an appeal is taken by the employer or the ~~administrator~~ director to the court of common pleas of Franklin county. Such appeal shall be taken by the employer or the ~~administrator~~ director by filing a notice of appeal with the clerk of such court and with the commission. Such notice of appeal shall set forth the decision appealed and the errors in it complained of. Proof of the filing of such notice with the commission shall be filed with the clerk of such court.

The commission, upon written demand filed by the appellant and within thirty days after the filing of such demand, shall file with the clerk a certified transcript of the record of the proceedings before the commission pertaining to the determination or order complained of, and the appeal shall be heard upon such record certified to the commission. In such appeal, no additional evidence shall be received by the court, but the court may order additional evidence to be taken before the commission, and the commission, after hearing such additional evidence, shall certify such additional evidence to the court or it may modify its determination and file such modified determination, together with the transcript of the additional record, with the court. After an appeal has been filed in the court, the commission, by petition, may be made a party to such appeal. Such appeal shall be given precedence over other civil cases. The court may affirm the determination or order complained of in the appeal if it finds, upon consideration of the entire record, that the determination or order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the determination or order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. An appeal may be taken from the decision of the court of common pleas of Franklin county.

(E) The appeal provisions of division (D) of this section apply to all other determinations and orders of the ~~administrator~~ director affecting the liability of an employer to pay contributions or the amount of such contributions, determinations respecting application for refunds of contributions, determinations respecting applications for classification of employment as seasonal under section 4141.33 of the Revised Code, and exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code.

(F) The validity of any general order or rule of the ~~administrator~~ director adopted pursuant to this chapter or of any final order or action of the

employment compensation review commission respecting any such general order or rule may be determined by the court of common pleas of Franklin county, and such general order, rule, or action may be sustained or set aside by the court on an appeal to it which may be taken by any person affected by the order, rule, or action in the manner provided by law. Such appeal to the court of common pleas of Franklin county shall be filed within thirty days after the date such general order, rule, or action was publicly released by the ~~administrator~~ director or the commission. Either party to such action may appeal from the court of common pleas of Franklin county as in ordinary civil cases.

(G) Notwithstanding any determination made in pursuance of sections 4141.23 to 4141.26 of the Revised Code, no individual who files a claim for benefits shall be denied the right to a fair hearing as provided in section 4141.28 of the Revised Code, or the right to have a claim determined on the merits of it.

(H)(1) Notwithstanding division (D) of this section, if the ~~administrator~~ director finds that an omission or error in ~~bureau~~ the director's records or employer reporting caused the ~~administrator~~ director to issue an erroneous determination or order affecting contribution rates, the liability of an employer to pay contributions or the amount of such contributions, determinations respecting applications for refunds of contributions, determinations respecting applications for classification of seasonal status under section 4141.33 of the Revised Code, or exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code, the ~~administrator~~ director may issue a corrected determination or order correcting the erroneous determination or order, except as provided in division (H)(2) of this section.

(2) The ~~administrator~~ director may not issue a corrected determination or order correcting an erroneous determination or order if both of the following apply:

(a) The erroneous determination or order was caused solely by an omission or error of the ~~bureau~~ director;

(b) A correction of the erroneous determination or order would adversely affect the employer or any of the employers that were parties in interest to the erroneous determination or order.

A corrected determination or order issued under this division takes precedence over and renders void the erroneous determination or order and is appealable as provided in division (D) of this section.

Sec. 4141.27. If the ~~administrator~~ director of ~~the bureau of employment~~ job and family services finds that any person, firm, corporation, or

association is, or has been, an employer subject to ~~sections 4141.01 to 4141.46, inclusive, of the Revised Code~~ this chapter, which determination of liability has become final pursuant to the provisions of section 4141.26 of the Revised Code, and has failed to comply with such sections, ~~such administrator~~ the director shall determine the period during which ~~he~~ the person, firm, corporation or ~~it~~ association was such an employer, which finding and determination is for all purposes of such sections prima-facie evidence thereof. The ~~administrator~~ director shall forthwith give notice of said action to the employer who shall immediately thereafter furnish the ~~administrator~~ director with a payroll covering the period included in said finding, and shall forthwith pay the amount of contribution determined and fixed by the ~~administrator~~ director.

If said employer fails to furnish such payroll and pay the contribution for such period within ten days after receiving such notice, the ~~administrator~~ director shall then determine the amount of contribution due from said employer for the period the ~~administrator~~ director found ~~him or it~~ the employer to be subject to ~~sections 4141.01 to 4141.46, inclusive, of the Revised Code~~ this chapter, including interest, and shall notify said employer of the amount thereof and shall order it to be paid. If said amount is not paid within ten days after receiving notice, the ~~administrator~~ director shall certify ~~his~~ that finding relative to such employer to the attorney general, who shall forthwith institute a civil action against such employer in the name of the state for the collection of such contribution and interest. In such action it is sufficient for the plaintiff to set forth a copy of such finding as certified by the ~~administrator~~ director to the attorney general and to state that there is due to plaintiff on account of such finding a specified sum which plaintiff claims with interest. A certified copy of such finding of the amount of contribution due shall be attached to the petition and is prima-facie evidence of the truth of the facts therein contained. The answer or demurrer to such petition shall be filed within ten days, the reply or demurrer to the answer within twenty days, and the demurrer to the reply within thirty days after the return day of the summons or service by publication. All motions and demurrers shall be submitted to the court within ten days after they are filed. As soon as the issues are made up in any such case, it shall be placed at the head of the trial docket and shall be first in order of trial.

Unless said employer before the filing of the petition executes a bond to the state, in double the amount so found and ordered paid by the ~~administrator~~ director, with sureties to the approval of the ~~administrator~~ director, ~~with sureties to the approval of the administrator,~~ conditioned that ~~he or it~~ the employer shall pay any judgment and costs rendered against ~~him~~

~~or it~~ the employer for said contribution, the court at the time of the filing of the petition, without notice, may at the request of the ~~administrator~~ director appoint a receiver for the property and business of such employer in this state, with all the powers of receivers in other cases, who shall take charge of all said property and assets of the defendant and administer them under the orders of the court.

If upon the final hearing of said cause it is determined that the defendant previously has been held liable as an employer to pay contributions pursuant to the provisions of section 4141.26 of the Revised Code, which determination has become final in accordance with the provisions of such section and is subject to ~~the remaining sections 4141.01 to 4141.46, inclusive, of the Revised Code~~ this chapter, the court shall render judgment against said defendant for the amount of contribution provided to be paid by such employer for such period, with interest and costs, which judgment shall be given the same preference as is allowed by law to judgments rendered for claims for taxes.

If any employer who has complied with ~~such sections~~ this chapter defaults in any payment required to be made by ~~him or it~~ the employer for a period of ten days after notice that such payment is due, the same proceedings may be had as in the case of an employer against whom the ~~administrator~~ director has made a finding as provided in this section.

If the defendant is a nonresident of this state or a foreign corporation doing business in this state, service of summons may be made upon any agent, representative, or ~~foreman~~ foreperson of said defendant, wherever found in the state, or service may be made in any other manner authorized by statute.

The ~~administrator~~ director, for good cause shown, may waive a default in the payment of contributions when said default is less than sixty days' duration.

Sec. 4141.29. Each eligible individual shall receive benefits as compensation for loss of remuneration due to involuntary total or partial unemployment in the amounts and subject to the conditions stipulated in this chapter.

(A) No individual is entitled to a waiting period or benefits for any week unless the individual:

(1) Has filed a valid application for determination of benefit rights in accordance with section 4141.28 of the Revised Code;

(2) Has made a claim for benefits in accordance with section 4141.28 of the Revised Code;

(3) Has registered at an employment office or other registration place

maintained or designated by the ~~administrator~~ director of ~~the bureau of employment~~ job and family services. Registration shall be made in accordance with the time limits, frequency, and manner prescribed by the ~~administrator~~ director.

(4)(a) Is able to work and available for suitable work and is actively seeking suitable work either in a locality in which the individual has earned wages subject to this chapter during the individual's base period, or if the individual leaves that locality, then in a locality where suitable work normally is performed.

The ~~administrator~~ director may waive the requirement that a claimant be actively seeking work when the ~~administrator~~ director finds that an individual has been laid off and the employer who laid the individual off has notified the ~~administrator~~ director within ten days after the layoff, that work is expected to be available for the individual within a specified number of days not to exceed forty-five calendar days following the last day the individual worked. In the event the individual is not recalled within the specified period, this waiver shall cease to be operative with respect to that layoff.

(b) The individual shall be instructed as to the efforts that the individual must make in the search for suitable work, except where the active search for work requirement has been waived under division (A)(4)(a) of this section, and shall keep a record of where and when the individual has sought work in complying with those instructions and, upon request, shall produce that record for examination by the ~~administrator~~ director.

(c) An individual who is attending a training course approved by the ~~administrator~~ director meets the requirement of this division, if attendance was recommended by the ~~administrator~~ director and the individual is regularly attending the course and is making satisfactory progress. An individual also meets the requirements of this division if the individual is participating and advancing in a training program, as defined in division (P) of section 5709.61 of the Revised Code, and if an enterprise, defined in division (B) of section 5709.61 of the Revised Code, is paying all or part of the cost of the individual's participation in the training program with the intention of hiring the individual for employment as a new employee, as defined in division (L) of section 5709.61 of the Revised Code, for at least ninety days after the individual's completion of the training program.

(d) An individual who becomes unemployed while attending a regularly established school and whose base period qualifying weeks were earned in whole or in part while attending that school, meets the availability and active search for work requirements of division (A)(4)(a) of this section if

the individual regularly attends the school during weeks with respect to which the individual claims unemployment benefits and makes self available on any shift of hours for suitable employment with the individual's most recent employer or any other employer in the individual's base period, or for any other suitable employment to which the individual is directed, under this chapter.

(e) The ~~administrator~~ director shall adopt any rules that the ~~administrator~~ director deems necessary for the administration of division (A)(4) of this section.

(f) Notwithstanding any other provisions of this section, no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2296, nor shall that individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

For the purposes of division (A)(4)(f) of this section, "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for the purposes of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and wages for such work at not less than eighty per cent of the individual's average weekly wage as determined for the purposes of that federal act.

(5) Is unable to obtain suitable work.

(6) Participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust benefits under this chapter, including compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than extended compensation, and needs reemployment services pursuant to the profiling system established by the ~~administrator~~ director under division (K) of this section, unless the ~~administrator~~ director determines that:

(a) The individual has completed such services; or

(b) There is justifiable cause for the claimant's failure to participate in such services.

(B) An individual suffering total or partial unemployment is eligible for benefits for unemployment occurring subsequent to a waiting period of one week and no benefits shall be payable during this required waiting period, but no more than one week of waiting period shall be required of any such

individual in any benefit year in order to establish the individual's eligibility for total or partial unemployment benefits.

(C) The waiting period for total or partial unemployment shall commence on the first day of the first week with respect to which the individual first files a claim for benefits at an employment office or other place of registration maintained or designated by the ~~administrator~~ director or on the first day of the first week with respect to which the individual has otherwise filed a claim for benefits in accordance with the rules of the ~~bureau~~ department of ~~employment~~ job and family services, provided such claim is allowed by the ~~administrator~~ director.

(D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions:

(1) For any week with respect to which the ~~administrator~~ director finds that:

(a) The individual's unemployment was due to a labor dispute other than a lockout at any factory, establishment, or other premises located in this or any other state and owned or operated by the employer by which the individual is or was last employed; and for so long as the individual's unemployment is due to such labor dispute. No individual shall be disqualified under this provision if either of the following applies:

(i) The individual's employment was with such employer at any factory, establishment, or premises located in this state, owned or operated by such employer, other than the factory, establishment, or premises at which the labor dispute exists, if it is shown that the individual is not financing, participating in, or directly interested in such labor dispute;

(ii) The individual's employment was with an employer not involved in the labor dispute but whose place of business was located within the same premises as the employer engaged in the dispute, unless the individual's employer is a wholly owned subsidiary of the employer engaged in the dispute, or unless the individual actively participates in or voluntarily stops work because of such dispute. If it is established that the claimant was laid off for an indefinite period and not recalled to work prior to the dispute, or was separated by the employer prior to the dispute for reasons other than the labor dispute, or that the individual obtained a bona fide job with another employer while the dispute was still in progress, such labor dispute shall not render the employee ineligible for benefits.

(b) The individual has been given a disciplinary layoff for misconduct in connection with the individual's work.

(2) For the duration of the individual's unemployment if the ~~administrator~~ director finds that:

(a) The individual quit work without just cause or has been discharged for just cause in connection with the individual's work, provided division (D)(2) of this section does not apply to the separation of a person under any of the following circumstances:

(i) Separation from employment for the purpose of entering the armed forces of the United States if the individual makes application to enter, or is inducted into the armed forces within thirty days after such separation;

(ii) Separation from employment pursuant to a labor-management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employee, because of lack of work, to accept a separation from employment;

(iii) The individual has left employment to accept a recall from a prior employer or, except as provided in division (D)(2)(a)(iv) of this section, to accept other employment as provided under section 4141.291 of the Revised Code, or left or was separated from employment that was concurrent employment at the time of the most recent separation or within six weeks prior to the most recent separation where the remuneration, hours, or other conditions of such concurrent employment were substantially less favorable than the individual's most recent employment and where such employment, if offered as new work, would be considered not suitable under the provisions of divisions (E) and (F) of this section. Any benefits that would otherwise be chargeable to the account of the employer from whom an individual has left employment or was separated from employment that was concurrent employment under conditions described in division (D)(2)(a)(iii) of this section, shall instead be charged to the mutualized account created by division (B) of section 4141.25 of the Revised Code, except that any benefits chargeable to the account of a reimbursing employer under division (D)(2)(a)(iii) of this section shall be charged to the account of the reimbursing employer and not to the mutualized account, except as provided in division (D)(2) of section 4141.24 of the Revised Code.

(iv) When an individual has been issued a definite layoff date by the individual's employer and before the layoff date, the individual quits to accept other employment, the provisions of division (D)(2)(a)(iii) of this section apply and no disqualification shall be imposed under division (D) of this section. However, if the individual fails to meet the employment and earnings requirements of division (A)(2) of section 4141.291 of the Revised Code, then the individual, pursuant to division (A)(5) of this section, shall be ineligible for benefits for any week of unemployment that occurs prior to the layoff date.

(b) The individual has refused without good cause to accept an offer of

suitable work when made by an employer either in person or to the individual's last known address, or has refused or failed to investigate a referral to suitable work when directed to do so by a local employment office of this state or another state, provided that this division shall not cause a disqualification for a waiting week or benefits under the following circumstances:

(i) When work is offered by the individual's employer and the individual is not required to accept the offer pursuant to the terms of the labor-management contract or agreement; or

(ii) When the individual is attending a vocational training course pursuant to division (A)(4) of this section except, in the event of a refusal to accept an offer of suitable work or a refusal or failure to investigate a referral, benefits thereafter paid to such individual shall not be charged to the account of any employer and, except as provided in division (B)(1)(b) of section 4141.241 of the Revised Code, shall be charged to the mutualized account as provided in division (B) of section 4141.25 of the Revised Code.

(c) Such individual quit work to marry or because of marital, parental, filial, or other domestic obligations.

(d) The individual has knowingly made a false statement or representation or knowingly failed to report any material fact with the object of obtaining benefits to which the individual is not entitled.

(e) The individual became unemployed by reason of commitment to any correctional institution.

(f) The individual became unemployed because of dishonesty in connection with the individual's most recent or any base period work. Remuneration earned in such work shall be excluded from the individual's total base period remuneration and qualifying weeks that otherwise would be credited to the individual for such work in the individual's base period shall not be credited for the purpose of determining the total benefits to which the individual is eligible and the weekly benefit amount to be paid under section 4141.30 of the Revised Code. Such excluded remuneration and noncredited qualifying weeks shall be excluded from the calculation of the maximum amount to be charged, under division (D) of section 4141.24 and section 4141.33 of the Revised Code, against the accounts of the individual's base period employers. In addition, no benefits shall thereafter be paid to the individual based upon such excluded remuneration or noncredited qualifying weeks.

For purposes of division (D)(2)(f) of this section, "dishonesty" means the commission of substantive theft, fraud, or deceitful acts.

(E) No individual otherwise qualified to receive benefits shall lose the

right to benefits by reason of a refusal to accept new work if:

(1) As a condition of being so employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization, or would be denied the right to retain membership in and observe the lawful rules of any such organization.

(2) The position offered is vacant due directly to a strike, lockout, or other labor dispute.

(3) The work is at an unreasonable distance from the individual's residence, having regard to the character of the work the individual has been accustomed to do, and travel to the place of work involves expenses substantially greater than that required for the individual's former work, unless the expense is provided for.

(4) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(F) Subject to the special exceptions contained in division (A)(4)(f) of this section and section 4141.301 of the Revised Code, in determining whether any work is suitable for a claimant in the administration of this chapter, the ~~administrator~~ director, in addition to the determination required under division (E) of this section, shall consider the degree of risk to the claimant's health, safety, and morals, the individual's physical fitness for the work, the individual's prior training and experience, the length of the individual's unemployment, the distance of the available work from the individual's residence, and the individual's prospects for obtaining local work.

(G) The "duration of unemployment" as used in this section means the full period of unemployment next ensuing after a separation from any base period or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than: eighty-five dollars and ten cents per week beginning on June 26, 1990; and beginning on and after January 1, 1992, twenty-seven and one-half per cent of the statewide average weekly wage as computed each first day of January under division (B)(3) of section 4141.30 of the Revised Code, rounded down to the nearest dollar, except for purposes of division (D)(2)(c) of this section, such term means the full period of unemployment next ensuing after a separation from such work and until such individual has become reemployed subject to the terms set forth above, and has earned wages equal

to one-half of the individual's average weekly wage or sixty dollars, whichever is less.

(H) If a claimant is disqualified under division (D)(2)(a), (c), or (e) of this section or found to be qualified under the exceptions provided in division (D)(2)(a)(i), (ii), (iii), or (iv) of this section or division (A)(2) of section 4141.291 of the Revised Code, then benefits that may become payable to such claimant, which are chargeable to the account of the employer from whom the individual was separated under such conditions, shall be charged to the mutualized account provided in section 4141.25 of the Revised Code, provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer, except as provided in division (D)(2) of section 4141.24 of the Revised Code. In the case of a reimbursing employer, the ~~administrator~~ director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered under division (B) of section 4141.35 of the Revised Code.

(I)(1) Benefits based on service in employment as provided in divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that after December 31, 1977:

(a) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education, as defined in division (Y) of section 4141.01 of the Revised Code; or for an educational institution as defined in division (CC) of section 4141.01 of the Revised Code, shall not be paid to any individual for any week of unemployment that begins during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of those academic years or terms and has a contract or a reasonable assurance that the individual will perform services in any such capacity for any such institution in the second of those academic years or terms.

(b) Benefits based on service for an educational institution or an institution of higher education in other than an instructional, research, or principal administrative capacity, shall not be paid to any individual for any week of unemployment which begins during the period between two successive academic years or terms of the employing educational institution or institution of higher education, provided the individual performed those services for the educational institution or institution of higher education during the first such academic year or term and, there is a reasonable

nce that such individual will perform those services for any educational institution or institution of higher education in the second of such academic years or terms.

If compensation is denied to any individual for any week under division (I)(1)(b) of this section and the individual was not offered an opportunity to perform those services for an institution of higher education or for an educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of compensation for each week for which the individual timely filed a claim for compensation and for which compensation was denied solely by reason of division (I)(1)(b) of this section. An application for retroactive benefits shall be timely filed if received by the ~~administrator~~ director or the ~~administrator's~~ director's deputy within or prior to the end of the fourth full calendar week after the end of the period for which benefits were denied because of reasonable assurance of employment. The provision for the payment of retroactive benefits under division (I)(1)(b) of this section is applicable to weeks of unemployment beginning on and after November 18, 1983. The provisions under division (I)(1)(b) of this section shall be retroactive to September 5, 1982, only if, as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States secretary of labor determines that retroactivity is required by federal law.

(c) With respect to weeks of unemployment beginning after December 31, 1977, benefits shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess, if the individual performs any services described in divisions (I)(1)(a) and (b) of this section in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform any such services in the period immediately following the vacation period or holiday recess.

(d) With respect to any services described in division (I)(1)(a), (b), or (c) of this section, benefits payable on the basis of services in any such capacity shall be denied as specified in division (I)(1)(a), (b), or (c) of this section to any individual who performs such services in an educational institution or institution of higher education while in the employ of an educational service agency. For this purpose, the term "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing services to one or more educational institutions or one or more institutions of higher education.

(e) Any individual employed by a public school district or a county board of mental retardation shall be notified by the thirtieth day of April each year if the individual is not to be reemployed the following academic year.

(2) No disqualification will be imposed, between academic years or terms or during a vacation period or holiday recess under this division, unless the ~~administrator~~ director or the ~~administrator's~~ director's deputy has received a statement in writing from the educational institution or institution of higher education that the claimant has a contract for, or a reasonable assurance of, reemployment for the ensuing academic year or term.

(3) If an individual has employment with an educational institution or an institution of higher education and employment with a noneducational employer, during the base period of the individual's benefit year, then the individual may become eligible for benefits during the between-term, or vacation or holiday recess, disqualification period, based on employment performed for the noneducational employer, provided that the employment is sufficient to qualify the individual for benefit rights separately from the benefit rights based on school employment. The weekly benefit amount and maximum benefits payable during a disqualification period shall be computed based solely on the nonschool employment.

(J) Benefits shall not be paid on the basis of employment performed by an alien, unless the alien had been lawfully admitted to the United States for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services, or was otherwise permanently residing in the United States under color of law at the time the services were performed, under section 212(d)(5) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101:

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence that the individual had not, in fact, been lawfully admitted to the United States.

(K) The ~~administrator~~ director shall establish and utilize a system of profiling all new claimants under this chapter that:

(1) Identifies which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(2) Refers claimants identified pursuant to division (K)(1) of this section to reemployment services, such as job search assistance services, available under any state or federal law;

(3) Collects follow-up information relating to the services received by such claimants and the employment outcomes for such claimant's subsequent to receiving such services and utilizes such information in making identifications pursuant to division (K)(1) of this section; and

(4) Meets such other requirements as the United States secretary of labor determines are appropriate.

Sec. 4141.30. (A) All benefits shall be paid through public employment offices in accordance with such rules as the ~~administrator~~ director of ~~the bureau of employment~~ job and family services prescribes.

(B) With the exceptions in division (B)(4) of this section, benefits are payable to each eligible and qualified individual on account of each week of involuntary total unemployment after the specified waiting period at the weekly benefit amount determined by:

(1) Computing the individual's average weekly wage as defined in division (O)(2) of section 4141.01 of the Revised Code;

(2) Determining the individual's dependency class under division (E) of this section;

(3) Computing the individual's weekly benefit amount to be fifty per cent of ~~his~~ the individual's average weekly wage except, that the individual's weekly benefit amount shall not exceed the maximum amount shown for ~~his~~ the individual's dependency class in the following table:

Dependency Class	Maximum Weekly Benefit Amount
A	$147
B	223
C	233

Effective Sunday of the calendar week in which January 1, 1988, occurs and on each similar day of each year thereafter, the current maximum weekly benefit amount for each dependency class shall be adjusted based on the statewide average weekly wage. Any percentage increase in such statewide average weekly wage between the wage computed for the current year and the wage computed for the preceding year shall be used to increase the maximum amounts then in effect by the same percentage. Such increased amounts will be effective with respect to applications for benefit rights filed during the fifty-two consecutive calendar weeks beginning with such Sunday date.

The ~~administrator~~ director shall calculate the statewide average weekly

wage based on the average weekly earnings of all workers in employment subject to this chapter during the preceding twelve-month period ending the thirtieth day of June. The calculation shall be made in the following manner:

(a) The sum of the total monthly employment reported for the previous twelve-month period shall be divided by twelve to determine the average monthly employment;

(b) The sum of the total wages reported for the previous twelve-month period shall be divided by the average monthly employment to determine the average annual wage;

(c) The average annual wage shall be divided by fifty-two to determine the statewide average weekly wage.

In the computation of the weekly benefit amount, any resulting amount not a multiple of one dollar shall be rounded to the next lower multiple of one dollar. In the computation of the adjusted maximum benefit amounts, based on the statewide average weekly wage, any resulting amount not a multiple of one dollar shall be rounded to the next lower multiple of one dollar.

(4) Effective Sunday of the calendar week in which January 1, occurs for calendar years 1988 through 1993, the maximum weekly benefit amount payable for an individual's dependency class for those years shall be computed in accordance with this division, with an additional increase added to the prior year's increase equal to one-sixth of total percentage increase that otherwise would have been available in calendar years 1983, 1984, 1985, 1986, and 1987, if in those years an adjustment in the maximum weekly benefit amount would have been made pursuant to this division.

(5) Effective Sunday of the calendar week in which January 1, 1991, occurs, the maximum weekly benefit amounts computed under divisions (B)(3) and (4) of this section shall not exceed the following amounts:

(a) For dependency class A, fifty per cent of the statewide average weekly wage;

(b) For dependency class B, sixty per cent of the statewide average weekly wage;

(c) For dependency class C, sixty-six and two-thirds per cent of the statewide average weekly wage.

Division (B)(5) of this section applies to all new claims filed on and after the Sunday of the calendar week in which January 1, 1991, occurs, provided that the maximum weekly benefit amounts established for the dependency classes prior to such date ~~applies~~ apply to all claims until the maximum weekly benefit amounts as determined pursuant to division (B)(5) of this section equal or exceed the maximum weekly benefit amounts in

effect prior to such date.

(C) Benefits are payable to each partially unemployed individual otherwise eligible on account of each week of involuntary partial unemployment after the specified waiting period in an amount equal to ~~his~~ the individual's weekly benefit amount less that part of the remuneration payable to ~~him~~ the individual with respect to such week which is in excess of twenty per cent of ~~his~~ the individual's weekly benefit amount, and the resulting amount rounded to the next lower multiple of one dollar.

(D) The total benefits to which an individual is entitled in any benefit year, whether for partial or total unemployment, or both, shall not exceed the lesser of the following two amounts: (1) an amount equal to twenty-six times ~~his~~ the individual's weekly benefit amount determined in accordance with division (B) of this section and this division, or (2) an amount computed by taking the sum of twenty times ~~his~~ the individual's weekly benefit amount for the first twenty base period qualifying weeks plus one times the weekly benefit amount for each additional qualifying week beyond the first twenty qualifying weeks in ~~his~~ the individual's base period.

(E) Each eligible and qualified individual shall be assigned a dependency class in accordance with the following schedule:

Class	Description of Dependents
A	No dependents, or has insufficient wages to qualify for more than the maximum weekly benefit amount as provided under dependency class A
B	One or two dependents
C	Three or more dependents

As used in this division "dependent" means:

(1) Any natural child, stepchild, or adopted child of the individual claiming benefits for whom such individual at the beginning of ~~his~~ the individual's current benefit year is supplying and for at least ninety consecutive days, or for the duration of the parental relationship if it existed less than ninety days, immediately preceding the beginning of such benefit year, has supplied more than one-half of the cost of support and if such child on the beginning date of such benefit year was under eighteen years of age, or if unable to work because of permanent physical or mental disability;

(2) The legally married wife or husband of the individual claiming benefits for whom more than one-half the cost of support has been supplied by such individual for at least ninety consecutive days, or for the duration of the marital relationship if it has existed for less than ninety days,

mmediately preceding the beginning of such individual's current benefit year and such wife or husband was living with such individual and had an average weekly income, in such period, not in excess of twenty-five per cent of the claimant's average weekly wage.

(3) If both the husband and wife qualify for benefit rights with overlapping benefit years, only one of them may qualify for a dependency class other than A.

Sec. 4141.301. (A) As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later:

(i) The third week after the first week for which there is a state "off" indicator; or

(ii) The thirteenth consecutive week of such period~~;~~.

Except, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "state ~~/on'~~ 'on' indicator" for this state for a week if the ~~administrator~~ director of job and family services determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under Chapter 4141. of the Revised Code:

(a) Equaled or exceeded one hundred ~~and~~ twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and for weeks beginning before September 25, 1982, equaled or exceeded four per cent and for weeks beginning after September 25, 1982, equaled or exceeded five per cent;

(b) For weeks of unemployment beginning after December 31, 1977 and before September 25, 1982, such rate of insured unemployment:

(i) Met the criteria set forth in division (A)(2)(a) of this section; or

(ii) Equaled or exceeded five per cent.

(c) For weeks of unemployment beginning after September 25, 1982, such rate of insured unemployment:

(i) Met the criteria set forth in division (A)(2)(a) of this section; or

(ii) Equaled or exceeded six per cent.

(3) A "state 'off' indicator" exists for the state for a week if the ~~administrator~~ director determines, in accordance with the regulations of the

United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under Chapter 4141. of the Revised Code:

(a) Was less than one hundred ~~and~~ twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or for weeks beginning before September 25, 1982, was less than four per cent and for weeks beginning after September 25, 1982, was less than five per cent;

(b) For weeks of unemployment beginning after December 31, 1977 and before September 25, 1982, such rate of insured unemployment:

(i) Was less than five per cent; and

(ii) Met the criteria set forth in division (A)(3)(a) of this section.

(c) For weeks of unemployment beginning after September 25, 1982, such rate of insured unemployment~~;~~:

(i) Was less than six per cent; and

(ii) Met the criteria set forth in division (A)(3)(a) of this section.

(4) "Rate of insured unemployment," for purposes of divisions (A)(2) and (3) of this section, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the ~~administrator~~ director on the basis of the ~~administrator's~~ director's reports to the United States secretary of labor, by

(b) The average monthly employment covered under Chapter 4141. of the Revised Code, for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

(5) "Regular benefits" means benefits payable to an individual, as defined in division (C) of section 4141.01 of the Revised Code, or under any other state law, including dependents' allowance and benefits payable to federal civilian employees and to ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, other than extended benefits, and additional benefits as defined in division (A)(10) of this section.

(6) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, and additional benefits, payable to an individual under the provisions of this section for weeks of unemployment in the individual's eligibility period.

(7) "Eligibility period" of an individual means the period consisting of

the weeks in the individual's benefit year which begin in an extended benefit period and, if the individual's benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received prior to the week, all of the regular benefits that were available to the individual under Chapter 4141. of the Revised Code, or any other state law, including dependents' allowance and benefits payable to federal civilian employees and ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in the individual's current benefit year that includes the week;

(b) Has received, prior to the week, all of the regular benefits that were available to the individual under this chapter or any other state law, including dependents' allowances and regular benefits available to federal civilian employees and ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in the individual's current benefit year that includes the week, after the cancellation of some or all of the individual's wage credits or the total or partial reduction of the individual's right to regular benefits, provided that, for the purposes of divisions (A)(8)(a) and (8)(b) of this section, an individual shall be deemed to have received in the individual's current benefit year all of the regular benefits that were either payable or available to the individual even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to the individual's current benefit year, the individual may subsequently be determined to be entitled to more regular benefits, or

(ii) By reason of section 4141.33 of the Revised Code, or the seasonal employment provisions of another state law, the individual is not entitled to regular benefits with respect to the week of unemployment, although the individual may be entitled to regular benefits with respect to future weeks of unemployment in either the next season or off season in the individual's current benefit year, and the individual is otherwise an "exhaustee" within the meaning of this section with respect to the right to regular benefits under state law seasonal employment provisions during either the season or off season in which that week of unemployment occurs, or

(iii) Having established a benefit year, no regular benefits are payable to the individual during the year because the individual's wage credits were cancelled or the individual's right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) The individual's benefit year having expired prior to the week, has

no, or insufficient, wages or weeks of employment on the basis of which the individual could establish in any state a new benefit year that would include the week, or having established a new benefit year that includes the week, the individual is precluded from receiving regular benefits by reason of a state law which meets the requirements of section 3304 (a)(7) of the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301 to 3311; and

(i) Has no right for the week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, and other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for the week unemployment benefits under the unemployment compensation law of the Virgin Islands, prior to the day after that on which the secretary of labor approves the unemployment compensation law of the Virgin Islands, or of Canada; or if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to benefits under the law for the week.

(9) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

(10) "Additional benefits" means benefits totally financed by a state and payable to exhaustees by reason of high unemployment or by reason of other special factors under the provisions of any state law.

(B) Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the ~~administrator~~ director, the provisions of Chapter 4141. of the Revised Code, which apply to claims for, or the payment of, regular benefits, shall apply to claims for, and the payment of, extended benefits.

(C) Any individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the ~~administrator~~ director finds that, with respect to such week:

(1) The individual is an "exhaustee" as defined in division (A)(8) of this section; and

(2) The individual has satisfied the requirements of Chapter 4141. of the Revised Code, for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(D) The weekly extended benefit amount payable to an individual for a week of total unemployment in the individual's eligibility period shall be the

same as the weekly benefit amount payable to the individual during the individual's applicable benefit year.

(E) The total extended benefit amount payable to any eligible individual with respect to the individual's applicable benefit year shall be the lesser of the following amounts:

(1) Fifty per cent of the total amount of regular benefits, including dependents' allowances which were payable to the individual under Chapter 4141. of the Revised Code, in the individual's applicable benefit year;

(2) Thirteen times the individual's weekly benefit amount, including dependents' allowances, which was payable to the individual under Chapter 4141. of the Revised Code, for a week of total unemployment in the applicable benefit year; provided, that in making the computation under divisions (E)(1) and (2) of this section, any amount which is not a multiple of one dollar shall be rounded to the next lower multiple of one dollar.

(F)(1) Except as provided in division (F)(2) of this section, an individual eligible for extended benefits pursuant to an interstate claim filed in any state under the interstate benefit payment plan shall not be paid extended benefits for any week in which an extended benefit period is not in effect in such state.

(2) Division (F)(1) of this section does not apply with respect to the first two weeks for which extended compensation is payable to an individual, as determined without regard to this division, pursuant to an interstate claim filed under the interstate benefit payment plan from the total extended benefit amount payable to that individual in the individual's applicable benefit year.

(3) Notwithstanding any other provisions of this section, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(G)(1) Whenever an extended benefit period is to become effective in this state, as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the ~~administrator~~ director shall make an appropriate public announcement.

(2) Computations required by division (A)(4) of this section shall be made by the ~~administrator~~ director, in accordance with the regulations

escribed by the United States secretary of labor.

(H)(1)(a) The ~~administrator~~ director shall promptly examine any application for extended benefits filed and, under this section, shall determine whether such application is to be allowed or disallowed and, if allowed, the weekly and total extended benefits payable and the effective date of the application. The claimant, the claimant's most recent employer, and any other employer in the base period of the claim upon which the extended benefits are based, and who was chargeable for regular benefits based on such claim, shall be notified of such determination.

(b) The determination issued to the most recent or other base period employer shall include the total amount of extended benefits which may be charged to the employer's account. Such potential charge amount shall be an amount equal to one-fourth of the regular benefits chargeable to the employer's account on the regular claim upon which extended benefits are based except that, effective January 1, 1979, the potential charge amount to the state and its instrumentalities and its political subdivisions and their instrumentalities shall be an amount equal to one-half of the regular benefits chargeable to their accounts on such claim. If regular benefits were chargeable to the mutualized account, in lieu of an employer's account, then the extended benefits which are based on such prior mutualized benefits shall also be charged to the mutualized account.

(c) As extended benefits are paid to eligible individuals:

(i) One-half of such benefits will be charged to an extended benefit account to which reimbursement payments of one-half of extended benefits, received from the federal government as described in division (J) of this section, will be credited; and

(ii) One-half of the extended benefits shall be charged to the accounts of base period employers and the mutualized account in the same sequence as was provided for on the regular claim; or

(iii) The full amount of extended benefits shall be charged to the accounts of the state and its instrumentalities, and its political subdivisions and their instrumentalities. Employers making payments in lieu of contributions shall be charged in accordance with division (B)(1) of section 4141.241 of the Revised Code.

(d) If the application for extended benefits is disallowed, a determination shall be issued to the claimant, which determination shall set forth the reasons for the disallowance. Determinations issued under this division, whether allowed or disallowed, shall be subject to reconsideration and appeal in accordance with section 4141.28 of the Revised Code.

(2) Any additional or continued claims, as described in division (F) of

section 4141.01 of the Revised Code, filed by an individual at the beginning of, or during, the individual's extended benefit period shall be determined under division (D) of section 4141.28 of the Revised Code, and such determination shall be subject to reconsideration and appeal in accordance with section 4141.28 of the Revised Code.

(I) Notwithstanding division (B) of this section, payment of extended benefits under this section shall not be made to any individual for any week of unemployment in the individual's eligibility period during which the individual fails to accept any offer of suitable work, as defined in division (I)(2) of this section, or fails to apply for any suitable work to which the individual was referred by the ~~administrator~~ director, or fails to actively engage in seeking work, as prescribed in division (I)(4) of this section.

(1) If any individual is ineligible for extended benefits for any week by reason of a failure described in this division, the individual shall be ineligible to receive extended benefits beginning with the week in which the failure occurred and continuing until the individual has been employed during each of four subsequent weeks and the total remuneration earned by the individual for this employment is equal to or more than four times the individual's weekly extended benefit amount, and has met all other eligibility requirements of this section, in order to establish entitlement to extended benefits.

(2) For purposes of this section, the term "suitable work" means, with respect to an individual, any work which is within the individual's capabilities, provided that with respect to the position all of the following requirements are met:

(a) It offers the individual gross average weekly remuneration of more than the sum of:

(i) The individual's extended weekly benefit amount; and

(ii) The amount of supplemental unemployment compensation benefits, as defined in section 501(c)(17)(D) of the "Internal Revenue Code of 1954," 80 Stat. 1515, 26 U.S.C.A. 501, payable to the individual for the week of unemployment.

(b) It pays equal to or more than the higher of:

(i) The minimum wage provided by section 6(a)(1) of the "Fair Labor Standards Act of 1938," 91 Stat. 1245, 29 U.S.C.A. 206, without regard to any exemption; or

(ii) Any applicable state or local minimum wage.

(c) It is offered to the individual in writing or is listed with the employment office maintained or designated by the ~~bureau of employment services~~ director.

(3) Extended benefits shall not be denied under this division to any individual for any week by reason of a failure to accept an offer of, or apply for suitable work if either of the following conditions apply:

(a) The failure would not result in a denial of benefits to a regular benefit claimant under section 4141.29 of the Revised Code to the extent that section 4141.29 of the Revised Code is not inconsistent with division (I)(2) of this section;

(b) The individual furnishes evidence satisfactory to the ~~administrator~~ director that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory, the determination as to whether any work is suitable work with respect to this individual and whether the individual is ineligible or disqualified shall be based upon the meaning of "suitable work" and other provisions in section 4141.29 of the Revised Code.

(4) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during that week; and

(b) The individual provides tangible evidence to the ~~administrator~~ director that the individual has engaged in the effort during that week.

(5) The ~~administrator~~ director shall refer applicants for extended benefits to job openings that meet the requirements of divisions (E) and (F) of section 4141.29 of the Revised Code, and in the case of applicants whose prospects are determined not to be good under division (I)(3)(b) of this section to any suitable work which meets the criteria in divisions (I)(2) and (3)(a) of this section.

(6) Individuals denied extended or regular benefits under division (D)(1)(b) of section 4141.29 of the Revised Code because of being given a disciplinary layoff for misconduct must, after the date of disqualification, work the length of time and earn the amount of remuneration specified in division (I)(1) of this section, and meet all other eligibility requirements of this section, in order to establish entitlement to extended benefits.

(J) All payments of extended benefits made pursuant to this section shall be paid out of the unemployment compensation fund, provided by section 4141.09 of the Revised Code, and all payments of the federal share of extended benefits that are received as reimbursements under section 204 of the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 3306, shall be deposited in such unemployment compensation fund and shall be credited to the extended benefit account established by division (G) of this section. Any refund of extended benefits,

because of prior overpayment of such benefits, may be made from the unemployment compensation fund.

(K) In the administration of the provisions of this section which are enacted to conform with the requirements of the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 3306, the ~~administrator~~ director shall take such action consistent with state law, as may be necessary:

(1) To ensure that the provisions are so interpreted and applied as to meet the requirements of the federal act as interpreted by the United States department of labor; and

(2) To secure to this state the full reimbursement of the federal share of extended benefits paid under this section that are reimbursable under the federal act.

Sec. 4141.31. (A) Benefits otherwise payable for any week shall be reduced by the amount of remuneration a claimant receives with respect to such week as follows:

(1) Remuneration in lieu of notice;

(2) Compensation for wage loss under division (B) of section 4123.56 of the Revised Code or temporary partial disability under the workers' compensation law of any state or under a similar law of the United States;

(3) Except as provided in section 4141.312 of the Revised Code, payments in the form of retirement, or pension allowances under a plan wholly financed by an employer which payments are paid either directly by the employer, or indirectly through a trust, annuity, insurance fund, or under an insurance contract whether payable upon retirement, termination, or separation from employment, provided that if the claimant has twenty-six weeks or more of employment with a subsequent employer or employers who are not paying ~~him~~ the claimant a pension or retirement allowance, then such pension or retirement payments shall not reduce the benefits payable for the week, and provided further that no benefits shall thereafter be charged to the account of the employer who is paying the pension, but instead such benefits shall be charged to the mutualized account except as provided in division (B)(1)(b) of section 4141.241 of the Revised Code if the claimant's separation from the employer was disqualifying under division (D)(2)(a) of section 4141.29 of the Revised Code~~.~~;

(4) Remuneration in the form of separation or termination pay paid to an employee at the time of ~~his~~ the employee's separation from employment;

(5) Vacation pay or allowance payable under the terms of a labor-management contract or agreement, or other contract of hire, which payments are allocated to designated weeks.

If payments under this division are paid with respect to a month then the amount of remuneration deemed to be received with respect to any week during such month shall be computed by multiplying such monthly amount by twelve and dividing the product by fifty-two. If there is no designation of the period with respect to which payments to an individual are made under this section then an amount equal to such individual's normal weekly wage shall be attributed to and deemed paid with respect to the first and each succeeding week following ~~his~~ the individual's separation or termination from the employment of the employer making the payment until such amount so paid is exhausted.

If benefits for any week, when reduced as provided in this division, result in an amount not a multiple of one dollar, such benefits shall be rounded to the next lower multiple of one dollar.

Any payment allocated by the employer or the ~~administrator~~ director of ~~the bureau of employment~~ job and family services to weeks under division (A)(1), (4), or (5) of this section shall be deemed to be remuneration for the purposes of establishing a qualifying week and a benefit year under divisions (O)(1) and (R) of section 4141.01 of the Revised Code.

(B) Benefits payable for any week shall not be reduced by the amount of remuneration a claimant receives with respect to such week in the form of drill or reserve pay received by a member of the Ohio national guard or the armed forces reserve for attendance at a regularly scheduled drill or meeting.

(C) No benefits shall be paid for any week with respect to which or a part of which an individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, provided the disqualifications shall not apply if the appropriate agency of such other state or of the United States finally determines that ~~he~~ an individual is not entitled to such unemployment benefits. A law of the United States providing any payment of any type and in any amounts for periods of unemployment due to lack of work shall be considered an unemployment compensation law of the United States.

(D) Notwithstanding any other provision in this chapter, benefits otherwise payable shall not be reduced by payments that were made to an individual on or after August 1, 1991, pursuant to "The National Defense Authorization Act for Fiscal Years 1992 and 1993," Public Law 102-190, 105 Stat. 1394, 1396, 10 U.S.C.A. 1174a, 1175, in the form of voluntary separation incentive payments and special separation pay.

Sec. 4141.321. (A) The ~~administrator~~ director of ~~the bureau of employment~~ job and family services shall inform an individual who files an

application for determination of benefit rights on and after January 1, 1997, of all of the following at the time the individual files the application:

(1) Unemployment compensation is subject to federal income tax;

(2) Requirements exist pertaining to estimated tax payments;

(3) An individual may elect to have federal income tax deducted and withheld from the unemployment compensation benefits payable to that individual in the amount specified in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq.;

(4) An individual may change the withholding status the individual has previously elected once during ~~his~~ the individual's benefit year.

(B) The ~~administrator~~ director shall deduct and withhold from unemployment compensation benefits payable to an individual after December 31, 1996, federal income tax in the amount specified in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., if the individual informs the ~~administrator~~ director that the individual elects to have the ~~administrator~~ director make the deduction.

(C) In making the deduction specified in division (B) of this section, the ~~administrator~~ director shall comply with the procedures specified by the United States department of labor and the internal revenue service that pertain to the deducting and withholding of income tax. The ~~administrator~~ director shall adopt rules establishing priorities for the deduction and withholding of amounts under division (B) of this section.

(D) Amounts deducted and withheld pursuant to division (B) of this section shall remain in the unemployment compensation fund until transferred to the internal revenue service as a payment of income tax.

Sec. 4141.33. (A) "Seasonal employment" means employment of individuals hired primarily to perform services in an industry which because of climatic conditions or because of the seasonal nature of such industry it is customary to operate only during regularly recurring periods of forty weeks or less in any consecutive fifty-two weeks. "Seasonal employer" means an employer determined by the ~~administrator~~ director of ~~the bureau of employment~~ job and family services to be an employer whose operations and business, with the exception of certain administrative and maintenance operations, are substantially all in a seasonal industry. Any employer who claims to have seasonal employment in a seasonal industry may file with the ~~administrator~~ director a written application for classification of such employment as seasonal. Whenever in any industry it is customary to operate because of climatic conditions or because of the seasonal nature of such industry only during regularly recurring periods of forty weeks or less duration, benefits shall be payable only during the longest seasonal periods

which the best practice of such industry will reasonably permit. The ~~administrator~~ director shall determine, after investigation, hearing, and due notice, whether the industry is seasonal and, if seasonal, establish seasonal periods for such seasonal employer. Until such determination by the ~~administrator~~ director, no industry or employment shall be deemed seasonal.

(B) When the ~~administrator~~ director has determined such seasonal periods, ~~he~~ the director shall also establish the proportionate number of weeks of employment and earnings required to qualify for seasonal benefit rights in place of the weeks of employment and earnings requirement stipulated in division (R) of section 4141.01 and section 4141.30 of the Revised Code, and the proportionate number of weeks for which seasonal benefits may be paid. An individual whose base period employment consists of only seasonal employment for a single seasonal employer and who meets the employment and earnings requirements determined by the ~~administrator~~ director pursuant to this division will have ~~his~~ benefit rights determined in accordance with this division. Benefit charges for such seasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The ~~administrator~~ director may adopt rules for implementation of this section.

(C) An individual whose base period employment consists of either seasonal employment with two or more seasonal employers or both seasonal employment and nonseasonal employment with employers subject to this chapter, will have ~~his~~ benefit rights determined in accordance with division (R) of section 4141.01 and section 4141.30 of the Revised Code. Benefit charges for both seasonal and nonseasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The total seasonal and nonseasonal benefits during a benefit year cannot exceed twenty-six times the weekly benefit amount.

(D) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons, or similar periods, if the individual performed services in the first of the seasons, or similar periods, and there is a reasonable assurance that the individual will perform services in the later of the seasons, or similar periods.

(1) The term "reasonable assurance" as used in this division means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season.

(2) The ~~administrator~~ director shall adopt rules concerning the eligibility

for benefits of individuals under this division.

Sec. 4141.35. (A) If the ~~administrator~~ director of ~~the bureau of employment~~ job and family services finds that any fraudulent misrepresentation has been made by an applicant for or a recipient of benefits with the object of obtaining benefits to which the applicant or recipient was not entitled, and in addition to any other penalty or forfeiture under this chapter, then the ~~administrator~~ director:

(1) Shall within four years after the end of the benefit year in which the fraudulent misrepresentation was made reject or cancel such person's entire weekly claim for benefits that was fraudulently claimed, or the person's entire benefit rights if the misrepresentation was in connection with the filing of the claimant's application for determination of benefit rights;

(2) Shall by order declare that, for each application for benefit rights and for each weekly claim canceled, such person shall be ineligible for two otherwise valid weekly claims for benefits, claimed within six years subsequent to the discovery of such misrepresentation;

(3) By order shall require that the total amount of benefits rejected or canceled under division (A)(1) of this section be repaid to the ~~bureau of employment services~~ director before such person may become eligible for further benefits, and shall withhold such unpaid sums from future benefit payments accruing and otherwise payable to such claimant. Effective with orders issued on or after January 1, 1993, if such benefits are not repaid within thirty days after the ~~administrator's~~ director's order becomes final, interest on the amount remaining unpaid shall be charged to the person at a rate and calculated in the same manner as provided under section 4141.23 of the Revised Code. When a person ordered to repay benefits has repaid all overpaid benefits according to a plan approved by the ~~administrator~~ director, the ~~administrator~~ director may cancel the amount of interest that accrued during the period of the repayment plan. The ~~administrator~~ director may take action in the courts of this state to collect benefits and interest as provided in sections 4141.23 and 4141.27 of the Revised Code, in regard to the collection of unpaid contributions, using the final repayment order as the basis for such action. No administrative or legal proceedings for the collection of such benefits or interest due shall be initiated after the expiration of six years from the date on which the ~~administrator's~~ director's order requiring repayment became final and the amount of any benefits or interest not recovered at that time, and any liens thereon, shall be canceled as uncollectible.

(4) May take action to collect benefits fraudulently obtained under the unemployment compensation law of any other state or the United States or

Canada. Such action may be initiated in the courts of this state in the same manner as provided for unpaid contributions in section 4141.41 of the Revised Code.

(5) May take action to collect benefits that have been fraudulently obtained from the ~~bureau~~ director, interest pursuant to division (A)(3) of this section, and court costs, through attachment proceedings under Chapter 2715. of the Revised Code and garnishment proceedings under Chapter 2716. of the Revised Code.

(B) If the ~~administrator~~ director finds that an applicant for benefits has been credited with a waiting period or paid benefits to which the applicant was not entitled for reasons other than fraudulent misrepresentation, the ~~administrator~~ director shall:

(1)(a) Within six months after the determination under which the claimant was credited with that waiting period or paid benefits becomes final pursuant to section 4141.28 of the Revised Code, or within three years after the end of the benefit year in which such benefits were claimed, whichever is later, by order cancel such waiting period and require that such benefits be repaid to the ~~bureau of employment services~~ director or be withheld from any benefits to which such applicant is or may become entitled before any additional benefits are paid, provided that the repayment or withholding shall not be required where the overpayment is the result of the ~~administrator's~~ director's correcting or amending a prior decision due to a typographical or clerical error in the ~~administrator's~~ director's prior decision, or an error in an employer's report under division (G)(2) of section 4141.28 of the Revised Code.

(b) The limitation specified in division (B)(1)(a) of this section shall not apply to cases involving the retroactive payment of remuneration covering periods for which benefits were previously paid to the claimant. However, in such cases, the ~~administrator's~~ director's order requiring repayment shall not be issued unless the ~~administrator~~ director is notified of such retroactive payment within six months from the date the retroactive payment was made to the claimant.

(2) The ~~administrator~~ director may, by reciprocal agreement with the United States secretary of labor or another state, recover overpayment amounts from unemployment benefits otherwise payable to an individual under Chapter 4141. of the Revised Code. Any overpayments made to the individual that have not previously been recovered under an unemployment benefit program of the United States may be recovered in accordance with section 303(g) of the "Social Security Act" and sections 3304(a)(4) and 3306(f) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26

U.S.C.A. 3301 to 3311.

(3) If the amounts required to be repaid under division (B) of this section are not recovered within three years from the date the ~~administrator's~~ director's order requiring payment became final, initiate no further action to collect such benefits and the amount of any benefits not recovered at that time shall be canceled as uncollectible.

(C) The reconsideration and appeal provisions of section 4141.28 of the Revised Code shall apply to all orders and determinations issued under this section, except that an individual's right of appeal under division (B)(2) of this section shall be limited to this state's authority to recover overpayment of benefits.

(D) If an individual makes a full repayment or a repayment that is less than the full amount required by this section, the ~~administrator~~ director shall apply the repayment to the mutualized account under division (B) of section 4141.25 of the Revised Code, except that the ~~administrator~~ director shall credit the repayment to the accounts of the individual's base period employers that previously have not been credited for the amount of improperly paid benefits charged against their accounts based on the proportion of benefits charged against the accounts as determined pursuant to division (D) of section 4141.24 of the Revised Code.

The ~~administrator~~ director shall deposit any repayment collected under this section that the ~~administrator~~ director determines to be payment of interest or court costs into the unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

Sec. 4141.38. No person or no member of a firm or no president, secretary, general manager, or managing agent of a corporation, subject to ~~sections 4141.01 to 4141.46 of the Revised Code~~ this chapter, shall fail to comply with such sections relating to the making of reports or the payment of contributions to the unemployment compensation fund.

Any fine collected for a violation of this section shall be paid to the ~~administrator~~ director of ~~the bureau of employment~~ job and family services and placed in such fund.

Each day's failure on the part of such person, member of a firm, or officer of a corporation to comply with such sections, after notice to such person, firm, or corporation from the ~~administrator~~ director, constitutes a separate offense.

Sec. 4141.39. (A) Any interested party may enjoin the further operation of an employer who has failed to pay the contributions or to make payments in lieu of contributions as required under this chapter. The procedure to

in an injunction is governed by Chapter 2727. of the Revised Code and the right to such relief is in addition to the rights described in section 2727.02 of the Revised Code.

(B)(1) No construction contractor or subcontractor who, on the date of entering into a construction contract has failed to pay contributions or to make payments in lieu of contributions as required under this chapter for a minimum of nine consecutive months, may bring an action to enforce rights arising from that construction contract.

(2) Nothing in this section shall require the surety of a contractor or subcontractor described in division (B)(1) of this section to make payment of any contributions or payments in lieu of contributions as required under this chapter for that contractor or subcontractor, or affect the surety's rights in the event that the contractor or subcontractor is in default or is declared by an obligee to be in default of its contractual obligations.

(C) As used in this section:

(1) "Interested ~~part~~ party" means either of the following:

(a) The attorney general;

(b) The ~~administrator~~ director of ~~the bureau of employment~~ job and family services.

(2) "Construction contract" means any oral or written agreement involving any activity in connection with the erection, alteration, repair, replacement, renovation, installation, or demolition of any building, structure, highway, or bridge.

Sec. 4141.40. No employer, employee, or other person shall violate ~~sections 4141.01 to 4141.46, inclusive, of the Revised Code~~ this chapter, or do any act prohibited by such ~~sections~~ chapter, or fail to perform any duty lawfully enjoined, within the time prescribed by the ~~administrator~~ director of ~~the bureau of employment~~ job and family services, for which no penalty has been specifically provided, or fail to obey any lawful order given or made by the ~~administrator~~ director or any judgment or decree made by any court in connection with such sections. Every day during which any person or corporation, or any officer, agent, or employee thereof, fails to comply with any order of the ~~administrator~~ director or to perform any duty enjoined by ~~sections 4141.01 to 4141.46, inclusive, of the Revised Code~~ this chapter, constitutes a separate violation of such order or of such ~~sections~~ chapter.

Sec. 4141.41. Any nonresident employer who exercises the privilege of having one or more individuals perform personal services for ~~him~~ the nonresident employer within this state and any resident employer who exercises that privilege and thereafter removes from this state shall be deemed thereby to appoint the secretary of state as ~~his~~ the employer's agent

and attorney for the acceptance of process in any civil action under this section. The ~~administrator~~ director of ~~the bureau of employment~~ job and family services in instituting an action against any such employer shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such employer, and shall be of the same force and validity as if served upon ~~him~~ the employer personally within this state; provided the ~~administrator~~ director shall forthwith send notice of the service of such process or notice, together with a copy thereof, by registered mail, return receipt requested, to such employer at ~~his~~ the employer's last known address, and such return receipt, the ~~administrator's~~ director's affidavit of compliance with this section, and the copy of the notice of service shall be appended to the original of the process filed in the court in which such civil action is pending. The court in which such action is pending may grant continuances to afford such employer a reasonable opportunity to defend ~~his~~ the employer's interests.

The courts of this state shall recognize and enforce liabilities for unemployment contributions imposed by other states which extend a like comity to this state.

The attorney general may commence action in any other jurisdiction by and in the name of the ~~administrator~~ director to collect unemployment contributions, forfeitures, and interest legally due this state. The officials of other states which extend a like comity to this state may sue for the collection of such contributions in the courts of this state. A certificate by the secretary of state under the great seal of the state that such officers of the department as designated by the ~~administrator~~ director have authority to collect the unemployment contributions shall be conclusive evidence of such authority.

No person residing in this state shall willfully make a false statement or representation or knowingly fail to disclose a material fact to obtain or increase benefits or payments under the unemployment insurance law of any other state.

The attorney general may commence action in this state as agent for or on behalf of any other state to enforce judgments and liabilities for unemployment insurance taxes or contributions due such other state if such other state extends a like comity to this state.

Sec. 4141.42. The ~~administrator~~ director of ~~the bureau of employment~~ job and family services may enter into reciprocal agreements with departments charged with the administration of the unemployment compensation law of any other state or the United States or ~~the Dominion of~~ Canada for the purpose of determining and placing the liability of an

er for the payment of contributions for services rendered within this state or such other jurisdiction, or both, and to provide that the jurisdiction authorized to collect the contributions shall determine the benefit rights which may arise in connection with such services and assume the liability for the payment of the benefits.

Sec. 4141.43. (A) The ~~administrator~~ director of ~~the bureau of employment~~ job and family services may cooperate with the industrial commission, the bureau of workers' compensation, the United States internal revenue service, the United States employment service, ~~the department of human services,~~ and other similar departments and agencies, as determined by the ~~administrator~~ director, in the exchange or disclosure of information as to wages, employment, payrolls, unemployment, and other information. The ~~administrator~~ director may employ, jointly with one or more of such agencies or departments, auditors, examiners, inspectors, and other employees necessary for the administration of this chapter and employment and training services for workers in the state.

(B) The ~~administrator~~ director may make the state's record relating to the administration of this chapter available to the railroad retirement board and may furnish the board at the board's expense such copies thereof as the board deems necessary for its purposes.

(C) The ~~administrator~~ director may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment compensation law.

(D) The ~~administrator~~ director may enter into arrangements with the appropriate agencies of other states or of the United States or Canada whereby individuals performing services in this and other states for a single employer under circumstances not specifically provided for in division (B) of section 4141.01 of the Revised Code or in similar provisions in the unemployment compensation laws of such other states shall be deemed to be engaged in employment performed entirely within this state or within one of such other states or within Canada, and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the United States, or both, or of Canada may constitute the basis for the payment of benefits through a single appropriate agency under terms that the ~~administrator~~ director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the unemployment compensation fund.

(E) The ~~administrator~~ director may enter into agreements with the appropriate agencies of other states or of the United States or Canada:

(1) Whereby services or wages upon the basis of which an individual

may become entitled to benefits under the unemployment compensation law of another state or of the United States or Canada shall be deemed to be employment or wages for employment by employers for the purposes of qualifying claimants for benefits under this chapter, and the ~~administrator~~ director may estimate the number of weeks of employment represented by the wages reported to the ~~administrator~~ director for such claimants by such other agency, provided such other state agency or agency of the United States or Canada has agreed to reimburse the unemployment compensation fund for such portion of benefits paid under this chapter upon the basis of such services or wages as the ~~administrator~~ director finds will be fair and reasonable as to all affected interests;

(2) Whereby the ~~administrator~~ director will reimburse other state or federal or Canadian agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of such other states or of the United States or of Canada upon the basis of employment or wages for employment by employers, as the ~~administrator~~ director finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purpose of section 4141.09 and division (A) of section 4141.30 of the Revised Code. However, no reimbursement so payable shall be charged against any employer's account for the purposes of section 4141.24 of the Revised Code if the employer's account, under the same or similar circumstances, with respect to benefits charged under the provisions of this chapter, other than this section, would not be charged or, if the claimant at the time the claimant files the combined wage claim cannot establish benefit rights under this chapter. This noncharging shall not be applicable to a nonprofit organization that has elected to make payments in lieu of contributions under section 4141.241 of the Revised Code, except as provided in division (D)(2) of section 4141.24 of the Revised Code. The ~~administrator~~ director may make to other state or federal or Canadian agencies and receive from such other state or federal or Canadian agencies reimbursements from or to the unemployment compensation fund, in accordance with arrangements pursuant to this section.

(3) Notwithstanding division (B)(2)(f) of section 4141.01 of the Revised Code, the ~~administrator~~ director may enter into agreements with other states whereby services performed for a crew leader, as defined in division (BB) of section 4141.01 of the Revised Code, may be covered in the state in which the crew leader either:

(a) Has the crew leader's place of business or from which the crew leader's business is operated or controlled;

(b) Resides if the crew leader has no place of business in any state.

(F) The ~~administrator~~ director may apply for an advance to the unemployment compensation fund and do all things necessary or required to obtain such advance and arrange for the repayment of such advance in accordance with Title XII of the "Social Security Act" as amended.

(G) The ~~administrator~~ director may enter into reciprocal agreements or arrangements with the appropriate agencies of other states in regard to services on vessels engaged in interstate or foreign commerce whereby such services for a single employer, wherever performed, shall be deemed performed within this state or within such other states.

(H) The ~~administrator~~ director shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment, covered under this chapter, with the individual's wages and employment covered under the unemployment compensation laws of other states which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

(1) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and

(2) Avoiding the duplicate use of wages and employment by reason of such combining.

(I) The ~~administrator~~ director shall cooperate with the United States department of labor to the fullest extent consistent with this chapter, and shall take such action, through the adoption of appropriate rules, regulations, and administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the "Social Security Act" that relate to unemployment compensation, the "Federal Unemployment Tax Act," (1970) 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, the "Wagner-Peyser Act," (1933) 48 Stat. 113, 29 U.S.C.A. 49, and the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 596, 26 U.S.C.A. 3306.

Sec. 4141.431. (A) Notwithstanding section 4141.20 of the Revised Code, the ~~administrator~~ director of ~~the bureau of employment~~ job and family services shall attempt to enter into an agreement under section 3510(F) of the "Internal Revenue Code of 1986" with the secretary of the treasury to collect, as the agent of this state, the taxes imposed by this chapter on remuneration paid for domestic service in a private home of the employer.

(B) Upon the ~~administrator~~ director entering into an agreement under

division (A) of this section, returns with respect to taxes imposed by this chapter on remuneration paid for domestic service in a private home of the employer shall be made on a calendar-year basis.

(C) The ~~administrator~~ director shall adopt rules to further implement the coordination of this chapter and the "Social Security Domestic Employment Reform Act of 1994," 108 Stat. 4071, 26 U.S.C.A. 3121. Such rules do not require approval of the unemployment compensation ~~board of~~ review commission under section 4141.14 of the Revised Code.

Sec. 4141.47. (A) There is hereby created the auxiliary services personnel unemployment compensation fund, which shall not be a part of the state treasury. The fund shall consist of moneys paid into the fund pursuant to section 3317.06 of the Revised Code. The treasurer of state shall administer it in accordance with the directions of the ~~administrator~~ director of ~~the bureau of employment~~ job and family services. The ~~administrator~~ director shall establish procedures under which school districts that are charged and have paid for unemployment benefits as reimbursing employers pursuant to this chapter for personnel employed pursuant to section 3317.06 of the Revised Code may apply for and receive reimbursement for those payments under this section. School districts are not entitled to reimbursement for any delinquency charges, except as otherwise provided by law. In the case of school districts electing to pay contributions under section 4141.242 of the Revised Code, the ~~administrator~~ director shall establish procedures for reimbursement of the district from the fund of contributions made on wages earned by any auxiliary service personnel.

(B) In the event of the termination of the auxiliary services program established pursuant to section 3317.06 of the Revised Code, and after the ~~administrator~~ director has made reimbursement to school districts for all possible unemployment compensation claims of persons who were employed pursuant to section 3317.06 of the Revised Code, the ~~administrator~~ director shall certify that fact to the treasurer of state, who shall then transfer all unexpended moneys in the auxiliary services personnel unemployment compensation fund to the general revenue fund. In the event the auxiliary services personnel unemployment compensation fund contains insufficient moneys to pay all valid claims by school districts for reimbursement pursuant to this section, the ~~administrator~~ director shall estimate the total additional amount necessary to meet the liabilities of the fund and submit a request to the general assembly for an appropriation of that amount of money from the general revenue fund to the auxiliary services personnel unemployment compensation fund.

(C) All disbursements from the auxiliary services personnel

unemployment compensation fund shall be paid by the treasurer of state on warrants drawn by the ~~administrator~~ director. The warrants may bear the facsimile signature of the ~~administrator~~ director printed thereon or that of a deputy or other employee of the ~~administrator~~ director charged with the duty of keeping the account of the fund. Moneys in the fund shall be maintained in a separate account on the books of the depositary bank. The money shall be secured by the depositary bank to the same extent and in the same manner as required by Chapter 135. of the Revised Code. All sums recovered for losses sustained by the fund shall be deposited therein. The treasurer of state is liable on ~~his~~ the treasurer of state's official bond for the faithful performance of ~~his~~ the treasurer of state's duties in connection with the fund.

(D) All necessary and proper expenses incurred in administering this section shall be paid to the ~~administrator~~ director from the auxiliary services personnel unemployment compensation fund. For this purpose, there is hereby created in the state treasury the auxiliary services program administrative fund. The treasurer of state, pursuant to the warrant procedures specified in division (C) of this section, shall advance moneys as requested by the ~~administrator~~ director from the auxiliary services personnel unemployment compensation fund to the auxiliary services program administrative fund. The ~~administrator~~ director periodically may request the advance of such moneys as in ~~his~~ the treasurer of state's opinion are needed to meet anticipated administrative expenses and may make disbursements from the auxiliary services program administrative fund to pay those expenses.

(E) Upon receipt of a certification from the department of education regarding a refund to a board of education pursuant to section 3317.06 of the Revised Code, the ~~administrator~~ director shall issue a refund in the amount certified to the board from the auxiliary services personnel unemployment compensation fund.

Sec. 4167.02. (A) The ~~bureau~~ director of ~~employment services~~ commerce shall operate and enforce the public employment risk reduction program created by this chapter.

(B) There is hereby created in the ~~bureau~~ department of ~~employment services~~ commerce the public employment risk reduction advisory commission consisting of sixteen members appointed by the ~~administrator~~ director of ~~the bureau of employment services~~ commerce. Eight members of the commission shall be representatives of public employers, eight members shall be representatives of public employees, all of whom shall have expertise in the area of occupational safety and health issues.

In making appointments to the commission, the ~~administrator~~ director shall select the members representing public employers from a list of six names submitted by the Ohio municipal league, six names submitted by the Ohio township association, six names submitted by the county commissioners association of Ohio, three names submitted by the inter-university council of Ohio, and three names submitted by the Ohio school board association, provided that from the lists submitted, the ~~administrator~~ director shall appoint two members from the names submitted by the Ohio municipal league, one of whom shall represent a larger municipal corporation and one of whom shall represent a smaller municipal corporation, two members from the names submitted by the Ohio township association, one of whom shall represent a larger township and one of whom shall represent a smaller township, two members from the names submitted by the county commissioners association of Ohio, one of whom shall represent a larger county and one of whom shall represent a smaller county, one member from the names submitted by the inter-university council of Ohio, and one member from the names submitted by the Ohio school board association.

A member appointed to represent public employers must represent a jurisdiction that is subject to this chapter and a member appointed to represent public employees must represent public employees who are subject to this chapter. No more than eight members, at any time, may be of the same political party.

(C) The ~~administrator~~ director shall make the initial appointments to the commission within ninety days after ~~the effective date of this section~~ April 20, 1993 Of the initial appointments, the ~~administrator~~ director shall appoint two public employer and two public employee members to serve for a term ending two years after the appointment date, two public employer and two public employee members to serve for a term ending three years after the appointment date, two public employer and two public employee members to serve for a term ending four years after the appointment date, and two public employer, and two public employee members to serve a term ending five years after the appointment date. Thereafter, terms of office are for five years ending on the fifth anniversary of the appointment date. Each member shall serve subsequent to the expiration of the member's term until ~~a~~ the member's successor is appointed and qualified or until a period of sixty days has elapsed, whichever occurs first. Before entering upon the duties of office, each member shall take and subscribe to and file with the secretary of state the constitutional oath of office. The ~~administrator~~ director shall fill all vacancies in the manner prescribed for regular appointments to the

ssion but such appointments are limited to the unexpired terms. Members are eligible for reappointment to the commission.

The ~~administrator~~ director, after giving the member notice and an opportunity for a hearing, may remove a member for misfeasance, malfeasance, or nonfeasance. Three or more absences by a member from commission meetings that are not excused by the commission constitute nonfeasance. If the ~~administrator~~ director removes a member, the ~~administrator~~ director promptly shall fill the vacancy created in accordance with the requirements of this section.

(D) Annually, upon the appointment and qualification of the members appointed in that year, the commission shall organize by selecting among its members a chairperson and such other officers as the commission considers appropriate. Each member shall receive actual and necessary expenses incurred in the performance of the member's official duties as a commission member.

(E) The commission shall meet at the call of the chairperson or upon the written request of at least seven members of the commission. A majority of the members of the commission constitutes a quorum to conduct the business of the commission.

(F) The commission shall do all of the following:

(1) Adopt rules, in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, including rules covering standards the ~~administrator~~ director shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and a temporary variance and a variance from an Ohio employment risk reduction standard or part thereof under section 4167.09 of the Revised Code;

(2) Do all things necessary and appropriate for the administration and enforcement of this chapter.

(G) In carrying out the responsibilities of this chapter, the ~~administrator~~ director may use, with the consent of any federal, state, or local agency, the services, facilities, and personnel of such agency, with or without reimbursement, and may retain or contract with experts, consultants, and organizations for services or personnel on such terms as the ~~administrator~~ director determines appropriate.

Sec. 4167.06. (A) A public employee acting in good faith has the right to refuse to work under conditions that the public employee reasonably believes present an imminent danger of death or serious harm to the public employee, provided that such conditions are not such as normally exist for or reasonably might be expected to occur in the occupation of the public

employee. A public employer shall not discriminate against a public employee for a good faith refusal to perform assigned tasks if the public employee has requested that the public employer correct the hazardous conditions but the conditions remain uncorrected, there was insufficient time to eliminate the danger by resorting to the enforcement methods provided in this chapter, and the danger was one that a reasonable person under the circumstances then confronting the public employee would conclude is an imminent danger of death or serious physical harm to the public employee. A public employee who has refused in good faith to perform assigned tasks and who has not been reassigned to other tasks by the public employer shall, in addition to retaining a right to continued employment, receive full compensation for the tasks that would have been performed. If the public employer reassigns the public employee, the public employer shall pay ~~him his~~ the public employee's full compensation as if ~~he~~ the public employee were not reassigned.

(B) A public employee who exercises ~~his~~ the right to refuse to work under division (A) of this section shall notify by a written statement that is signed by the public employee, as soon as practicable after exercising that right, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce of the condition that presents an imminent danger of death or serious harm to the public employee. Upon receipt of the notification, the ~~administrator~~ director or ~~his~~ the director's designee immediately shall inspect the premises of the public employer. The ~~administrator~~ director and ~~his~~ the director's designee shall comply with section 4167.10 of the Revised Code in conducting the inspection and investigation and in issuing orders and citations.

(C) A public employee who refuses to perform assigned tasks under division (A) of this section and fails to meet all of the conditions set forth in that division for the refusal is subject to any disciplinary action provided by law or agreement between the public employer and public employee for a refusal to work, including, but not limited to, suspension, nonpayment of wages for the duration of the refusal to work, and discharge.

Sec. 4167.08. (A) In the event of an emergency or unusual situation, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall issue an emergency temporary Ohio employment risk reduction standard to take immediate effect upon publication in newspapers of general circulation in Cleveland, Columbus, Cincinnati, and Toledo if the ~~administrator~~ director finds both of the following:

(1) Public employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from

new hazards;

(2) The emergency temporary Ohio employment risk reduction standard is necessary to protect employees from the danger.

(B)(1) Except as provided in division (B)(2) of this section an emergency temporary Ohio employment risk reduction standard issued by the ~~administrator~~ director under division (A) of this section shall be in effect no longer than fifteen days, unless the commission approves the emergency temporary Ohio employment risk reduction standard as issued by the ~~administrator~~ director, in which case, the emergency temporary Ohio employment risk reduction standard shall be in effect no longer than one hundred twenty days after the date the ~~administrator~~ director issues it.

(2) The ~~administrator~~ director may renew an emergency temporary Ohio employment risk reduction standard that has been approved by the public employment risk reduction advisory commission for an additional time period not to exceed one hundred days if ~~he~~ the director finds that the conditions identified in divisions (A)(1) and (2) of this section continue to exist.

On or before the expiration date of the emergency temporary Ohio employment risk reduction standard or renewal thereof, if the conditions identified in divisions (A)(1) and (2) of this section continue to exist, the commission shall adopt a permanent Ohio employment risk reduction standard pursuant to section 4167.07 of the Revised Code as a rule to replace the emergency temporary Ohio employment risk reduction standard.

Sec. 4167.09. (A) Any public employer affected by a proposed rule or Ohio employment risk reduction standard or any provision thereof proposed under section 4167.07 or 4167.08 of the Revised Code may apply to the ~~administrator~~ director of ~~the bureau of employment services~~ commerce for an order granting a temporary variance from the standard or provision thereof. The application for the order and any extension thereof shall contain a reasonable application fee, as determined by the public employment risk reduction advisory commission, and all of the following information:

(1) A specification of the Ohio public employment risk reduction standard or portion thereof from which the public employer seeks the temporary variance;

(2) A representation by the public employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that the public employer is unable to comply with the Ohio employment risk reduction standard or portion thereof and a detailed statement of the reasons therefor;

(3) A statement of the steps that the public employer has taken and will

take, with dates specified, to protect employees against the hazard covered by the standard;

(4) A statement of when the public employer expects to be able to comply fully with the Ohio employment risk reduction standard and what steps ~~he~~ the public employer has taken and will take, with dates specified, to come into full compliance with the standard;

(5) A certification that the public employer has informed ~~his~~ the public employer's public employees of the application by giving a copy of the application to the public employee representative, if any, and by posting a statement giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification. The public employer must also inform ~~his~~ the public employer's public employees of their rights to a hearing under section 4167.15 of the Revised Code. The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(B) The ~~administrator~~ director shall issue an order providing for a temporary variance if the public employer files an application that meets the requirements of division (A) of this section and establishes that all of the following pertaining to the public employer are true:

(1) ~~He~~ The public employer is unable to comply with the Ohio employment risk reduction standard or a provision thereof by its effective date because of the unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the Ohio employment risk reduction standard or provision thereof or because necessary construction or alteration of facilities cannot be completed by the effective date of the standard.

(2) ~~He~~ The public employer is taking all available steps to safeguard ~~his~~ the public employer's public employees against the hazards covered by the Ohio employment risk reduction standard.

(3) ~~He~~ The public employer has an effective program for coming into compliance with the Ohio employment risk reduction standard as quickly as practicable.

(4) The granting of the variance will not create an imminent danger of death or serious physical harm to public employees.

(C)(1) If the ~~administrator~~ director issues an order providing for a temporary variance under division (B) of this section, the ~~administrator~~ director shall prescribe the practices, means, methods, operations, and processes that the public employer must adopt and use while the order is in

effect and state in detail the public employer's program for coming into compliance with the Ohio employment risk reduction standard. The ~~administrator~~ director may issue the order only after providing notice to affected public employees and their public employee representative, if any, and an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, provided that the ~~administrator~~ director may issue one interim order granting a temporary order to be effective until a decision on a hearing is made. Except as provided in division (C)(2) of this section, no temporary variance may be in effect for longer than the period needed by the public employer to achieve compliance with the Ohio employment risk reduction standard or one year, whichever is shorter.

(2) The ~~administrator~~ director may renew an order issued under division (C) of this section up to two times provided that the requirements of divisions (A), (B), and (C)(1) of this section and section 4167.15 of the Revised Code are met and the public employer files an application for renewal with the ~~administrator~~ director at least ninety days prior to the expiration date of the order.

(D) Any public employer affected by an Ohio employment risk reduction standard or any provision thereof proposed, adopted, or otherwise issued under section 4167.07 or 4167.09 of the Revised Code may apply to the ~~administrator~~ director for an order granting a variance from the standard or portion thereof. The ~~administrator~~ director shall provide affected public employees and their public employee representative, if any, notice of the application and shall provide an opportunity for a hearing pursuant to section 4167.15 of the Revised Code. The ~~administrator~~ director shall issue the order granting the variance if the public employer files an application that meets the requirements of division (B) of this section, and after an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, and if the public employer establishes to the satisfaction of the ~~administrator~~ director that the conditions, practices, means, methods, operations, or processes used or proposed to be used by ~~him~~ the public employer will provide employment and places of employment to ~~his~~ the public employer's public employees that are as safe and healthful as those that would prevail if ~~he~~ the public employer complied with the Ohio employment risk reduction standard. The ~~administrator~~ director shall prescribe in the order granting the variance the conditions the public employer must maintain, and the practices, means, methods, operations, and processes ~~he~~ the public employer must adopt and utilize in lieu of the Ohio employment risk reduction standard which would otherwise apply. The ~~administrator~~ director may modify or revoke the order upon application of the public employer, public

employee, or public employee representative, or upon ~~his~~ the director's own motion in the manner prescribed for the issuance of an order under this division at any time during six months after the date of issuance of the order.

Sec. 4167.10. (A) In order to carry out the purposes of this chapter, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce or the ~~administrator's~~ director's designee shall, as provided in this section, inspect and investigate any plant, facility, establishment, construction site, or any other area, workplace, or environment where work is being performed by a public employee of a public employer, and any place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any public employer, administrator, department head, operator, agent, or public employee. The authority to inspect and investigate includes the taking of environmental samples, the taking and obtaining of photographs related to the purposes of the inspection or investigation, the examination of records required to be kept under section 4167.11 of the Revised Code and other documents and records relevant to the inspection and investigation, the issuance of subpoenas, and the conducting of tests and other studies reasonably calculated to serve the purposes of implementing and enforcing this chapter. Except as provided in this section, the ~~administrator~~ director or the ~~administrator's~~ director's designee shall conduct inspections and investigations only pursuant to a request to do so by a public employee or public employee representative, or the notification the ~~administrator~~ director receives pursuant to division (B) of section 4167.06 of the Revised Code and only if the ~~administrator~~ director or the ~~administrator's~~ director's designee complies with this section. The ~~administrator~~ director or the ~~administrator's~~ director's designee shall conduct all requested or required inspections within a reasonable amount of time following receipt of the request or notification.

(B)(1) Any public employee or public employee representative who believes that a violation of an Ohio employment risk reduction standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving written notice to the ~~administrator~~ director or the ~~administrator's~~ director's designee of the violation or danger. The notice shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the public employee or public employee representative. The names of individual public employees making the notice or referred to therein shall not appear in the copy provided to the public employer pursuant to division (B)(2) of this section and shall be kept confidential.

(2) If, upon receipt of a notification pursuant to division (B)(1) of this section, the ~~administrator~~ director determines that there are no reasonable grounds to believe that a violation or danger exists, the ~~administrator~~ director shall inform the public employee or public employee representative in writing of the determination. If, upon receipt of a notification, the ~~administrator~~ director determines that there are reasonable grounds to believe that a violation or danger exists, the ~~administrator~~ director shall, within one week, excluding Saturdays, Sundays, and any legal holiday as defined in section 1.14 of the Revised Code, after receipt of the notification, notify the public employer, by certified mail, return receipt requested, of the alleged violation or danger. The notice provided to the public employer or the public employer's agent shall contain a copy of the notice provided to the ~~administrator~~ director by the public employee or the public employee representative under division (B)(1) of this section and shall inform the public employer of the alleged violation or danger and that the ~~administrator~~ director or the ~~administrator's~~ director's designee will investigate and inspect the public employer's workplace as provided in this section. The public employer must respond to the ~~administrator~~ director, in a method determined by the ~~administrator~~ director, concerning the alleged violation or danger, within thirty days after receipt of the notice. If the public employer does not correct the violation or danger within the thirty-day period or if the public employer fails to respond within that time period, the ~~administrator~~ director or the ~~administrator's~~ director's designee shall investigate and inspect the public employer's workplace as provided in this section. The ~~administrator~~ director or the ~~administrator's~~ director's designee shall not conduct any inspection prior to the end of the thirty-day period unless requested or permitted by the public employer. The ~~administrator~~ director may, at any time upon the request of the public employer, inspect and investigate any violation or danger alleged to exist at the public employer's place of employment.

(3) The authority of the ~~administrator~~ director or the ~~administrator's~~ director's designee to investigate and inspect a premises pursuant to a public employee or public employee representative notification is not limited to the alleged violation or danger contained in the notification. The ~~administrator~~ director or the ~~administrator's~~ director's designee may investigate and inspect any other area of the premises where there is reason to believe that a violation or danger exists. In addition, if the ~~administrator~~ director or the ~~administrator's~~ director's designee detects any obvious or apparent violation at any temporary place of employment while en route to the premises to be inspected or investigated, and that violation presents a substantial

probability that the condition or practice could result in death or serious physical harm, the ~~administrator~~ director or the ~~administrator's~~ director's designee may use any of the enforcement mechanisms provided in this section to correct or remove the condition or practice.

(4) If, during an inspection or investigation, the ~~administrator~~ director or the ~~administrator's~~ director's designee finds any condition or practice in any place of employment that presents a substantial probability that the condition or practice could result in death or serious physical harm, after notifying the employer of the ~~administrator's~~ director's intent to issue an order, the ~~administrator~~ director shall issue an order, or the ~~administrator's~~ director's designee shall issue an order after consultation either by telephone or in person with the ~~administrator~~ director and upon the recommendation of the ~~administrator~~ director, which prohibits the employment of any public employee or any continuing operation or process under such condition or practice until necessary steps are taken to correct or remove the condition or practice. The order shall not be effective for more than fifteen days, unless a court of competent jurisdiction otherwise orders as provided in section 4167.14 of the Revised Code.

(C) In making any inspections or investigations under this chapter, the ~~administrator~~ director or the ~~administrator's~~ director's designee may administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall receive the same fees and mileage provided for witnesses in civil cases in the court of common pleas. In the case of contumacy, failure, or refusal of any person to comply with an order or any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, a judge of the court of common pleas of any county in this state, on the application of the ~~administrator~~ director or the ~~administrator's~~ director's designee, shall issue an order requiring the person to appear and to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question. The court may punish any failure to obey the order of the court as a contempt thereof.

(D) If, upon inspection or investigation, the ~~administrator~~ director or the ~~administrator's~~ director's designee believes that a public employer has violated any requirement of this chapter or any rule, Ohio employment risk reduction standard, or order adopted or issued pursuant thereto, the ~~administrator~~ director or the ~~administrator's~~ director's designee shall, with reasonable promptness, issue a citation to the public employer. The citation shall be in writing and describe with particularity the nature of the alleged

violation, including a reference to the provision of law, Ohio employment risk reduction standard, rule, or order alleged to have been violated. In addition, the citation shall fix a time for the abatement of the violation, as provided in division (H) of this section. The ~~administrator~~ director may prescribe procedures for the issuance of a notice with respect to minor violations and for enforcement of minor violations that have no direct or immediate relationship to safety or health.

(E) Upon receipt of any citation under this section, the public employer shall immediately post the citation, or a copy thereof, at or near each place an alleged violation referred to in the citation occurred.

(F) The ~~administrator~~ director may not issue a citation under this section after the expiration of six months following the final occurrence of any violation.

(G) If the ~~administrator~~ director issues a citation pursuant to this section, the ~~administrator~~ director shall mail the citation to the public employer by certified mail, return receipt requested. The public employer has fourteen days after receipt of the citation within which to notify the ~~administrator~~ director that the employer wishes to contest the citation. If the employer notifies the ~~administrator~~ director within the fourteen days that the employer wishes to contest the citation, or if within fourteen days after the issuance of a citation a public employee or public employee representative files notice that the time period fixed in the citation for the abatement of the violation is unreasonable, the ~~administrator~~ director shall hold an adjudication hearing in accordance with Chapter 119. of the Revised Code.

(H) In establishing the time limits in which a public employer must abate a violation under this section, the ~~administrator~~ director shall consider the costs to the public employer, the size and financial resources of the public employer, the severity of the violation, the technological feasibility of the public employer's ability to comply with requirements of the citation, the possible present and future detriment to the health and safety of any public employee for failure of the public employer to comply with requirements of the citation, and such other factors as the ~~administrator~~ director determines appropriate. The ~~administrator~~ director may, after considering the above factors, permit the public employer to comply with the citation over a period of up to two years and may extend that period an additional one year, as the ~~administrator~~ director determines appropriate.

(I) Any public employer may request the ~~administrator~~ director to conduct an employment risk reduction inspection of the public employer's place of employment. The ~~administrator~~ director or the ~~administrators~~ director's designee shall conduct the inspection within a reasonable amount

of time following the request. Neither the ~~administrator~~ director nor any other person may use any information obtained from the inspection for a period not to exceed three years in any proceeding for a violation of this chapter or any rule or order issued thereunder nor in any other action in any court in this state.

Sec. 4167.11. (A) In order to further the purposes of this chapter, the ~~administrator~~ director of ~~the bureau of employment services~~ commerce shall develop and maintain, for public employers and public employees, an effective program of collection, compilation, and analysis of employment risk reduction statistics.

(B) To implement and maintain division (A) of this section, the public employment risk reduction advisory commission shall adopt rules in accordance with Chapter 119. of the Revised Code that extend to all of the following:

(1) Requiring each public employer to make, keep, and preserve, and make available to the ~~administrator~~ director, reports and records regarding the public employer's activities, as determined by the rule that are necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. The rule shall prescribe which of these reports and records shall or may be furnished to public employees and public employee representatives.

(2) Requiring every public employer, through posting of notices or other appropriate means, to keep their public employees informed of public employees' rights and obligations under this chapter, including the provisions of applicable Ohio employment risk reduction standards;

(3) Requiring public employers to maintain accurate records of public employee exposure to potentially toxic materials, carcinogenic materials, and harmful physical agents that are required to be monitored or measured under rules adopted under the guidelines of division (C) of section 4167.07 of the Revised Code. The rule shall provide public employees or public employee representatives an opportunity to observe the monitoring or measuring, and to have access on request to the records thereof, and may provide public employees or public employee representatives an opportunity to participate in and to undertake their own monitoring or measuring. The rules also shall permit each current or former public employee to have access to the records that indicate their own exposure to toxic materials, carcinogenic materials, or harmful agents.

(C) The ~~administrator~~ director shall obtain any information under division (B) of this section with a minimum burden upon the public

employer and shall, to the maximum extent feasible, reduce unnecessary duplication of efforts in obtaining the information.

Sec. 4167.12. All information reported to or otherwise obtained by the ~~administrator~~ director of ~~the bureau of employment services~~ commerce or ~~his~~ the director's designee in connection with any investigation, inspection, or proceeding under this chapter that reveals a trade secret of any person is confidential, except that the information may be disclosed to other agents or authorized representatives of the ~~administrator~~ director concerned with fulfilling the requirements of this chapter, or when relevant, to any proceeding under this chapter. In any proceeding, the ~~administrator~~ director or the court shall issue orders as appropriate to protect the confidentiality of trade secrets.

Sec. 4167.14. (A) Any court of common pleas has jurisdiction, upon petition of the ~~administrator~~ director of ~~the bureau of employment services~~ commerce, to restrain any conditions or practices in any places of employment that present a danger that could reasonably be expected to cause death or serious harm or contribute significantly to occupationally related illness immediately or before the imminence of the danger can be eliminated through the enforcement procedures provided in this chapter. Any order issued under this section may require that steps be taken as necessary to avoid, correct, or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger.

(B) Upon the filing of a petition under division (A) of this section, the court of common pleas may grant injunctive relief or a temporary restraining order pending the outcome of an enforcement proceeding pursuant to this chapter, except that no temporary restraining order issued without notice is effective for a period longer than five calendar days.

(C) If the ~~administrator~~ director or ~~his~~ the director's designee responsible for inspections determines that the imminent danger as described in division (A) of this section is such that immediate action is necessary, and further determines that there is not sufficient time in light of the nature, severity, and imminence of the danger to seek and obtain a temporary restraining order or injunction, the ~~administrator~~ director or ~~his~~ the director's designee immediately shall file a petition with the court under division (A) of this section and issue an order requiring action to be taken as is necessary to avoid, correct, or remove the imminent danger.

The public employment risk reduction advisory commission shall adopt rules, in accordance with Chapter 119. of the Revised Code, to permit a

ic employer expeditious informal reconsideration of any order issued by the ~~administrator~~ director under this division. Unless the ~~administrator~~ director reverses ~~his~~ an order pursuant to the informal reconsideration, the order remains in effect pending the court's determination under this section. If the ~~administrator~~ director modifies ~~his~~ an order pursuant to the informal reconsideration, the ~~administrator~~ director shall provide the court with whom the ~~administrator~~ director filed the petition under this section with a copy of the modified order. The modified order remains in effect pending the court's determination under this section.

Sec. 4167.15. Any public employer, public employee, or public employee representative affected by an order, rule, or Ohio employment risk reduction standard proposed, adopted, or otherwise issued pursuant to this chapter, may request, within fourteen days after the proposal, adoption, or issuance of the order, rule, or standard, a hearing from the ~~administrator~~ director of ~~the bureau of employment services~~ commerce. The ~~administrator~~ director, within fourteen days after receipt of a request for a hearing, shall appoint a hearing officer to make a determination as to the request. The hearing officer, within fourteen days after the hearing officer's appointment, shall hold a hearing in accordance with Chapter 119. of the Revised Code and, within fourteen days after the hearing, render a decision. A public employer, public employee, or public employee representative may appeal the decision of the hearing officer to the ~~administrator~~ director, provided that the appeal is made within thirty days after the hearing officer issues the decision. The decision of the hearing officer is final unless appealed to the ~~administrator~~ director within the time period set in this section or unless the ~~administrator~~ director, on the ~~administrator's~~ director's own motion, modifies or reverses the decision within that time period. If a party fails to appeal the decision of the hearing officer, the decision of the hearing officer is not, for purposes of section 4167.16 of the Revised Code, a final order of the ~~administrator~~ director and is not appealable to court as provided in section 4167.16 of the Revised Code, except that if the party fails to appeal the decision of the hearing officer, and the ~~administrator~~ director modifies or reverses the decision under this section, the decision of the ~~administrator~~ director is appealable to court pursuant to section 4167.16 of the Revised Code.

Sec. 4167.16. (A) Any party who is adversely affected by a final order of the ~~bureau~~ director of ~~employment services~~ commerce issued pursuant to division (G) of section 4167.10 or section 4167.15 of the Revised Code, and who has exhausted all administrative appeals from such order may appeal the order, within thirty days after the issuance of a final order, to the court of

common pleas of Franklin county or to the court of common pleas of the county in which the alleged violation occurred. If the court finds an undue hardship to the appellant will result from the enforcement of the order pending determination of the appeal, the court may grant a suspension of the order and fix the terms thereof.

(B)(1) The court shall conduct a hearing on the appeal filed under division (A) of this section and shall give preference to all proceedings under this section over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. The hearing shall proceed as in the case of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to the action.

(2) The court shall affirm the order of the ~~administrator~~ director if it finds, upon consideration of the record as a whole, and additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In absence of that finding, the court shall reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court is final and conclusive, unless reversed, vacated, or modified on appeal. Any party may appeal as provided in Chapter 2505. of the Revised Code.

(C) No person who has failed to exhaust all of the administrative appeals provided in this chapter may file an appeal of a final order of the ~~administrator~~ director under division (A) of this section.

Sec. 4167.17. (A) If a public employer, public employee, or public employee representative willfully fails to comply with any final order of the ~~administrator~~ director of ~~the bureau of employment services~~ commerce issued pursuant to this chapter, the ~~administrator~~ director may apply to the court of common pleas of Franklin county or the court of common pleas of the county in which the violation occurred, for an injunction, restraining order, or any other appropriate relief compelling the public employer, public employee, or public employee representative to comply with such order. The court shall order such relief as it considers appropriate and shall, in addition, impose a civil penalty of not more than five hundred dollars per day per violation and not to exceed a total of ten thousand dollars per violation.

(B) The ~~administrator~~ director shall not seek to enforce this chapter, or any Ohio employment risk reduction standard, rule, or order adopted or issued pursuant thereto, in any manner that derogates from the immunity offered to a public employer by variances obtained under this chapter, or by variations, tolerance, or exemption allowed a public employer for reasons of

national defense by the United States secretary of labor pursuant to section 16 of the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended.

Sec. 4167.19. (A) A public employer, other than a state agency, may apply to the ~~administrator~~ director of ~~the bureau of employment services~~ commerce for an order exempting the public employer from compliance with this chapter, except as provided in division (K) of this section, if the public employer satisfies both of the following criteria:

(1) The public employer is a member of a group that qualifies for a group rating plan pursuant to division (A)(4) of section 4123.29 of the Revised Code or the public employer's premium rate is at least fifty per cent less than the base rate for its workers' compensation premiums;

(2) The public employer establishes and maintains a safety committee with both public employees and representatives of the public employer as members if the public employer does not qualify for a group rating plan. A public employer that employs five or fewer public employees need not have a safety committee.

(B) The application shall be on a form prescribed by the ~~administrator~~ director and shall be transmitted to the ~~administrator~~ director by certified mail, return receipt requested. The application shall contain a certification of all of the following:

(1) The public employer has adopted an ordinance or resolution requesting an exemption from this chapter;

(2) At least ten working days prior to passage of an ordinance or resolution described in division (B)(1) of this section, the public employer has informed its public employees of the application by giving a copy of the application to the public employee representative, if any;

(3) The public employer has informed its public employees by posting a statement for thirty consecutive days giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification;

(4) The public employer has informed its public employees of their rights to a hearing under section 4167.15 of the Revised Code.

The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(C) Except as provided in this section, the ~~administrator~~ director shall issue an order providing for an exemption if the public employer meets the requirements of division (A) of this section and files an application that

meets the requirements of division (B) of this section.

(D) The ~~administrator~~ director shall not grant an exemption under division (C) of this section until after the superintendent of the division of safety and hygiene in the bureau of workers' compensation conducts an employment risk reduction inspection of the public employer's place of employment to determine the presence of any hazardous or unsafe conditions. The ~~administrator~~ director shall not cite the public employer for a violation of this chapter during this inspection.

(E) The superintendent shall provide a copy of the report of the inspection conducted pursuant to division (D) of this section and any findings to the public employer. Within six months after receipt of the report, the public employer shall submit the report to the ~~administrator~~ director, if the public employer wishes to proceed with the exemption request. If the report does not contain a description of any hazardous or unsafe conditions, the ~~administrator~~ director shall grant the public employer an exemption from this chapter, except as provided in division (K) of this section. If the report contains a description of any hazardous or unsafe conditions, the public employer shall submit to the ~~administrator~~ director a plan that describes how it intends to remedy, within a one-year period of time, the hazardous or unsafe conditions.

Within thirty days after receipt of the plan from the public employer, the ~~administrator~~ director may approve or disapprove the plan as submitted. If the ~~administrator~~ director approves the plan as submitted, the ~~administrator~~ director shall grant the public employer an exemption from this chapter, except as provided in division (K) of this section.

If the ~~administrator~~ director disapproves the plan, the ~~administrator~~ director shall return it and the reasons for its rejection to the public employer. The public employer may submit a revised plan, which corrects the deficiencies for which the original plan was rejected, within thirty days after receipt of the disapproved plan from the ~~administrator~~ director. The ~~administrator~~ director has thirty days after receipt of the revised plan to review it, and if it remedies the ~~administrator's~~ director's objections, to approve it and grant the exemption. The public employer shall be exempted from this chapter, except as provided in division (K) of this section, if the ~~administrator~~ director fails to act within the thirty-day period.

(F) Within ten working days after completing implementation of the plan, the public employer shall certify to the ~~administrator~~ director, by certified mail, return receipt requested, that the hazardous or unsafe conditions have been abated.

If a public employer fails to complete the plan within the one-year

period of time, the ~~administrator~~ director may do either of the following:

(1) Terminate the exemption;

(2) Grant to the public employer a sixty-day extension to the one-year period of time, provided that the ~~administrator~~ director determines that the public employer is making significant progress in completing implementation of the plan.

The ~~administrator~~ director shall terminate the exemption of a public employer who does not complete implementation of the plan within the sixty-day extension granted by the ~~administrator~~ director under division (F)(2) of this section.

(G) The ~~administrator~~ director shall inspect a public employer's place of employment immediately after either of the following occur:

(1) A public employee of the public employer is killed due to an incident that is related to the public employee's employment;

(2) Three or more public employees of the public employer are hospitalized due to an incident that is related to the public employees' employment.

After reviewing the inspection report, the ~~administrator~~ director may require the public employer to submit to the ~~administrator~~ director, within a reasonable amount of time as determined by the ~~administrator~~ director, a plan that describes how the public employer intends to remedy any conditions described in the report that the ~~administrator~~ director determines need to be remedied.

Nothing in this division constitutes the granting of a new exemption for purposes of determining the seven-year expiration date pursuant to division (H) of this section.

(H) Except as provided in division (F), an exemption granted pursuant to this section expires seven years after the date of its issuance. A public employer may apply for a subsequent exemption in the same manner provided in this section for the grant of an original exemption.

(I) Each public employer granted an exemption under this section shall request the superintendent of the division of safety and hygiene in the bureau of workers' compensation to conduct a safety inspection of the public employer's place of employment two years after the date the public employer is granted the exemption and every two years thereafter.

(J) Notwithstanding any other provision of this chapter, a public employer who meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section is not subject to this chapter, except section 4167.06 of the Revised Code and division (G) of this section, after the date on which the public

employer meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section until the ~~administrator~~ director determines whether to grant the exemption under this section.

(K) Nothing in this section limits, or shall be construed as limiting, a public employee's rights as provided in section 4167.06 of the Revised Code. Nothing in this section limits, or shall be construed as limiting, a public employer's right to adopt reasonable safety rules and require a public employee's compliance with those rules.

A public employer who is granted an exemption under this section shall not be exempt from divisions (G), (H), and (I) of this section.

Sec. 4303.292. (A) The division of liquor control may refuse to issue, transfer the ownership of, or renew, and shall refuse to transfer the location of any retail permit issued under this chapter if it finds:

(1) That the applicant, any partner, member, officer, director, or manager thereof, or any shareholder owning ten per cent or more of its capital stock:

(a) Has been convicted at any time of a crime which relates to fitness to operate a liquor establishment;

(b) Has operated liquor permit businesses in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of this state or any other state;

(c) Has misrepresented a material fact in applying to the division for a permit;

(d) Is in the habit of using alcoholic beverages or dangerous drugs to excess, or is addicted to the use of narcotics.

(2) That the place for which the permit is sought:

(a) Does not conform to the building, safety, or health requirements of the governing body of the county or municipality in which the place is located. As used in division (A)(2)(a) of this section, "building, safety, or health requirements" does not include local zoning ordinances. The validity of local zoning regulations shall not be affected by this section.

(b) Is so constructed or arranged that law enforcement officers and duly authorized agents of the division are prevented from reasonable access to rooms within which beer or intoxicating liquor is to be sold or consumed.

(c) Is so located with respect to the neighborhood that substantial interference with public decency, sobriety, peace, or good order would result from the issuance, renewal, transfer of location, or transfer of ownership of the permit and operation thereunder by the applicant.

(d) Has been declared a nuisance pursuant to Chapter 3767. of the

Revised Code since the time of the most recent issuance, renewal, or transfer of ownership or location of the liquor permit.

(B) The division of liquor control may refuse to issue or transfer the ownership of, and shall refuse to transfer the location of any retail permit issued under this chapter if it finds:

(1) That the place for which the permit is sought is so situated with respect to any school, church, library, public playground, or hospital that the operation of the liquor establishment will substantially and adversely affect or interfere with the normal, orderly conduct of the affairs of those facilities or institutions.

(2) That the number of permits already existent in the neighborhood is such that the issuance or transfer of location of a permit would be detrimental to and substantially interfere with the morals, safety, or welfare of the public, and, in reaching a conclusion in this respect, the division shall consider, in light of the purposes of Chapters 4301., 4303., and 4399. of the Revised Code, the character and population of the neighborhood, the number and location of similar permits in the neighborhood, the number and location of all other permits in the neighborhood, and the effect the issuance or transfer of location of a permit would have on the neighborhood.

(C) The division of liquor control shall not transfer the location or transfer the ownership and location of a permit under division (B)(3)(b) of section 4303.29 of the Revised Code unless the permit is transferred to an economic development project.

(D) The division of liquor control shall refuse to issue, renew, transfer the ownership of, or transfer the location of a retail permit under this chapter if the applicant is or has been convicted of a violation of division (C)(1) of section 2913.46 of the Revised Code.

(E) The division of liquor control shall refuse to transfer the ownership of or transfer the location of a retail permit under this chapter while criminal proceedings are pending against the holder of the permit for a violation of division (C)(1) of section 2913.46 of the Revised Code. The department of ~~human~~ job and family services shall notify the division of liquor control whenever criminal proceedings have commenced for a violation of division (C)(1) of section 2913.46 of the Revised Code.

(F) The division shall refuse to issue, renew, or transfer the ownership or location of a retail permit under this chapter if the applicant has been found to be maintaining a nuisance under section 3767.05 of the Revised Code at the premises for which the issuance, renewal, or transfer of ownership or location of the retail permit is sought.

Sec. 4582.37. No port authority shall enter into any contract for the

creation, construction, alteration, or repair of any port authority facility and no loan agreement for the borrowing of funds for any such port authority facility undertaken by a port authority shall be executed unless laborers and mechanics employed on the facility are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the facility, which wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for determination of prevailing wage rates, provided that the requirements of this section do not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with the facility and prescribes predetermined minimum wages to be paid to such laborers and mechanics; and provided further that should a nonpublic user beneficiary of the facility undertake construction to be performed by its regular bargaining unit employees who are covered under a collective bargaining agreement which was in existence prior to the commitment instrument undertaking a loan or grant of funds then, in that event, the rate of pay provided under the collective bargaining agreement may be paid to such employees.

Except as provided in this section, construction on any port authority facility to which this section applies is hereby deemed to be construction of a public improvement within section 4115.03 of the Revised Code. All contractors and subcontractors working on such projects, facilities, or port authority facilities shall be subject to and comply with sections 4115.03 to 4115.16 of the Revised Code, and the ~~bureau~~ director of ~~employment services~~ commerce shall, and any interested party may, bring proceedings under such sections to enforce compliance. The ~~bureau~~ director shall make the determination of wages as required under this section and shall designate one of ~~its~~ the director's employees to act as the prevailing wage coordinator under section 4115.071 of the Revised Code for any project, facility, or port authority facility for which a coordinator has not been designated by any port authority.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medical assistance program established under Chapter 5111. of the Revised Code or the disability assistance medical assistance program established under Chapter

5115. of the Revised Code, the auditor of state also shall report the amount to the department of ~~human services~~ commerce.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 5101.03. The assistant directors of the department of ~~human~~ job and family services shall exercise the powers and perform the duties which the director of ~~human~~ job and family services may order. The director is authorized to designate which assistant director shall act as director in the absence or disability of the director or in case of a vacancy in the position of director.

Sec. 5101.071. (A) Not later than ninety days after the effective date of this section, the director of ~~human~~ job and family services shall develop and provide a training program to assist caseworkers in county departments of ~~human~~ job and family services and public children services agencies in understanding the dynamics of domestic violence and the relationship domestic violence has to child abuse. The program shall be coordinated with other department of job and family services programs regarding family violence.

(B) Not later than ninety days after the effective date of this section, the director of ~~human~~ job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing policies for dealing with domestic violence and the victims of domestic violence. The rules shall include all of the following:

(1) A rule designating types and categories of employees of county departments of ~~human~~ job and family services and employees of public children services agencies to receive training in the handling of domestic violence cases and a policy for the training of the designated types and categories of employees in the handling of those cases.

(2) Guidelines directing how county departments of ~~human~~ job and family services and county children services boards shall respond to identified domestic violence problems and to the needs of children directly or indirectly involved in situations involving domestic violence.

(C) Each county department of ~~human~~ job and family services and each public children services agency shall require its employees to complete the training described in divisions (A) and (B) of this section in accordance with the rules adopted by the director of ~~human~~ job and family services pursuant to division (B) of this section.

Sec. 5101.072. The department of ~~human~~ job and family services shall collaborate with county departments of ~~human~~ job and family services to develop training for appropriate employees of the county departments

regarding the provisions of Sub. H.B. 408 of the 122nd general assembly, and of Sub. H.B. 167 of the 121st general assembly that have not been superseded by Sub. H.B. 408 of the 122nd general assembly, that impose duties on county departments of ~~human~~ job and family services. After the training is developed, the department shall collaborate with the county departments on providing the training.

Sec. 5101.11. This section does not apply to contracts entered into under section 5111.022 of the Revised Code.

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program administered by the department of ~~human~~ job and family services.

(B) At the request of any public entity having authority to implement a program administered by the department of ~~human~~ job and family services or any private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title IV-A, Title IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(C) All funds collected by the department of ~~human~~ job and family services pursuant to division (B) of this section shall be distributed to the entities that incurred the costs, except for any amounts retained by the department pursuant to division (D)(3) of this section.

(D) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules adopted under division (F) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred

by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department of ~~human~~ job and family services or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Permit the department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity;

(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section;

(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of ~~human~~ job and family services for the use of the funds to improve and expand the program.

(F) The ~~department~~ director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The ~~department~~ director may adopt or amend any statewide plan required by the federal government for a program administered by the department, as necessary to implement this section.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

Sec. 5101.111. The ~~Foundation Grant Fund~~ foundation grant fund is hereby created in the state treasury. Money the ~~Department~~ department of ~~Human Services~~ job and family services receives from private foundations in support of pilot projects that promote exemplary programs for enhancing the health, safety, and well-being of children and families shall be credited to the fund. The ~~Department~~ department may expend the money on such projects, may use the money, to the extent allowable, to match federal funds in support of such projects, and shall comply with requirements the foundations have stipulated in their agreements with the ~~Department~~ department as to the purposes for which the money may be expended.

Sec. 5101.14. (A) Within available funds, the department of ~~human~~ job

and family services shall make payments to the counties within thirty days after the beginning of each calendar quarter for a part of their costs for services to children performed pursuant to Chapter 5153. of the Revised Code.

Funds provided to the county under this section shall be deposited into the children services fund created pursuant to section 5101.144 of the Revised Code.

(B)(1) The funds distributed under this section shall be used for the following:

(a) Home-based services to children and families;

(b) Protective services to children;

(c) To find, develop, and approve adoptive homes;

(d) Short-term, out-of-home care and treatment for children;

(e) Costs for the care of a child who resides with a caretaker relative, other than the child's parent, and is in the legal custody of a public children services agency pursuant to a voluntary temporary custody agreement entered into under division (A) of section 5103.15 of the Revised Code or in the legal custody of a public children services agency or the caretaker relative pursuant to an allegation or adjudication of abuse, neglect, or dependency made under Chapter 2151. of the Revised Code;

(f) Other services a public children services agency considers necessary to protect children from abuse, neglect, or dependency.

(2) No funds distributed under this section shall be used for the costs of maintaining a child in a children's home owned and operated by the county.

(C) In each fiscal year, the amount of funds available for distribution under this section shall be allocated to counties as follows:

(1) If the amount is less than the amount initially appropriated for the immediately preceding fiscal year, each county shall receive an amount equal to the percentage of the funding it received in the immediately preceding fiscal year, exclusive of any releases from or additions to the allocation or any sanctions imposed under this section;

(2) If the amount is equal to the amount initially appropriated for the immediately preceding fiscal year, each county shall receive an amount equal to the amount it received in the preceding fiscal year, exclusive of any releases from or additions to the allocation or any sanctions imposed under this section;

(3) If the amount is greater than the amount initially appropriated for the immediately preceding fiscal year, each county shall receive the amount determined under division (C)(2) of this section as a base allocation, plus a percentage of the amount that exceeds the amount initially appropriated for

the immediately preceding fiscal year. The amount exceeding the amount initially appropriated in the immediately preceding fiscal year shall be allocated to the counties as follows:

(a) Twelve per cent divided equally among all counties;

(b) Forty-eight per cent in the ratio that the number of residents of the county under the age of eighteen bears to the total number of such persons residing in this state;

(c) Forty per cent in the ratio that the number of residents of the county with incomes under the federal poverty guideline bears to the total number of such persons in this state.

As used in division (C)(3)(c) of this section, "federal poverty guideline" means the poverty guideline as defined by the United States office of management and budget and revised by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended.

(D)~~(C)~~ The ~~department~~ director of job and family services may adopt rules as necessary for the allocation of funds under this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code.

(E)~~(D)~~(1) As used in this division, "services to children" includes only children's protective services, home-based services to children and families, family foster home services, residential treatment services, adoptive services, and independent living services.

(2) Except as otherwise provided in this section, the allocation of funds for a fiscal year to a county under this section shall be reduced by the department if in the preceding calendar year the total amount expended for services to children from local funds and funds distributed to the county under section 5101.46 of the Revised Code was less than the total expended from those sources in the second preceding calendar year. The reduction shall be equal to the difference between the total expended in the preceding calendar year and the total expended in the second preceding calendar year.

The determination of whether the amount expended for services to children was less in the preceding calendar year than in the second preceding calendar year shall not include a difference due to any of the following factors to the extent that the difference does not exceed the amount attributable to that factor:

(a) An across-the-board reduction in the county budget as a whole;

(b) A reduced or failed levy specifically earmarked for children services;

(c) A reduced allocation of funds to the county under section 5101.24 of

the Revised Code;

(d) The closure of, or a reduction in the operating capacity of, a children's home owned and operated by the county.

(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole or partial waivers of the provisions of this division.

~~(E) public agency~~

(F) Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution, or who are in adoptions subsidized under division (B) of section 5153.163 of the Revised Code are eligible for medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.

(G) Within ninety days after the end of each fiscal year, each county shall return any unspent funds to the department.

(H) The department shall prepare an annual report detailing on a county-by-county basis the services provided with funds distributed under this section. The report shall be submitted to the general assembly by the thirtieth day of September each year and also shall be made available to the public.

(I) In accordance with Chapter 119. of the Revised Code, the director shall adopt, and may amend and rescind, rules prescribing reports on expenditures to be submitted by the counties as necessary for the implementation of this section.

Sec. 5101.141. (A) The department of ~~human~~ job and family services shall act as the single state agency to administer federal payments for foster care and adoption assistance made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended~~, and~~. The director of job and family services shall adopt rules to implement this authority. Internal management rules governing financial and administrative requirements applicable to public children services agencies shall be adopted in accordance with section 111.15 of the Revised Code. Rules establishing eligibility, program participation, and other requirements shall be adopted in accordance with Chapter 119. of the Revised Code. A public children services agency to which the department distributes Title IV-E funds shall administer the funds in accordance with those rules.

(B)(1) The county, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "Social Security Act," shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division (B)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "Social Security Act," make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more family foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in division (B)(1) and (2) of this section.

(C) To the extent that either foster care maintenance payments under division (B) of this section or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the department.

(D) The department shall distribute to public children services agencies that incur and report such expenditures federal financial participation received for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than two per cent of the federal financial participation received. The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

(E) All federal funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5101.144 of the Revised Code.

(F) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments.

(G) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or

more interstate compacts on behalf of this state with agencies of any other states, for the provision of medical assistance and other social services to children in relation to whom all of the following apply:

(1) They have special needs.

(2) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf.

(3) They move into this state from another state or move out of this state to another state.

Sec. 5101.142. (A) The department of job and family services may apply to the United States secretary of health and human services for a waiver of requirements established under Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), or regulations adopted thereunder, to conduct a demonstration project expanding eligibility for and services provided under Title IV-E. The department may enter into agreements with the secretary necessary to implement the demonstration project, including agreements establishing the terms and conditions of the waiver authorizing the project. If a demonstration project is to be established, the department ~~of human services~~ shall do all of the following:

(1) ~~Adopt~~ Have the director of job and family services adopt rules in accordance with Chapter 119. of the Revised Code governing the project. The rules shall be consistent with the agreements the department enters into with the secretary.

(2) Enter into agreements with public children services agencies that the department selects for participation in the project. The department shall not select an agency that objects to participation or refuses to be bound by the terms and conditions of the project.

(3) Contract with persons or governmental agencies providing services under the project;

(4) Amend the state plan required by section 471 of the "Social Security Act," 42 U.S.C.A. 671, as amended, as needed to implement the project;

(5) Conduct ongoing evaluations of the project;

(6) Perform other administrative and operational activities required by the agreement with the secretary.

(B) The department may apply to the United States secretary of health and human services for a waiver of the requirements established under Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder and established under any other federal law or regulations that affect the children services functions prescribed by Chapter 5153. of the Revised Code, to conduct demonstration projects or otherwise improve the effectiveness and efficiency of the children services

function.

Sec. 5101.143. (A) As used in this section, "private agency" means a private child placing agency or private noncustodial agency.

(B) A government entity or private agency may submit to the department of ~~human~~ job and family services a request that the department determine what portion of an amount the government entity or private agency charges for foster care maintenance for a child eligible for foster care maintenance payments under Title IV-E of the "Social Security Act," 94 Stat. 510, 42 U.S.C.A. 670 (1980), as amended, qualifies for reimbursement under Title IV-E.

(C) As used in this division and division (D) of this section, "government entity" means any government entity other than a public children services agency.

Subject to initial and continued approval by the United States department of health and human services, the department of ~~human~~ job and family services shall levy a special assessment on each private agency or government entity seeking a rate determination under division (B) of this section. The amount of the special assessment shall be the greater of three hundred dollars or fifteen cents times the number of days the private agency or government entity provided or arranged foster care in the preceding calendar year to or for each child the agency or entity provided or arranged foster care. The department shall not perform a rate determination under division (B) of this section for a private agency or government entity that fails to pay the special assessment.

The department shall deposit all amounts collected under this division into the child welfare training fund, which is hereby created in the state treasury. The department shall use money in the fund only to secure federal matching funds under Title IV-E to help defray costs private agencies and government entities incur in training staff and foster care parents and that the department determines are allowable and reasonable costs and to make payments to private and government entities to assist with those costs.

The department shall determine the amount of payments it will make to private agencies and government entities under this division. The department may require a private agency or government entity that receives a payment under this division to pay or help pay the cost of an adverse audit finding that the agency or entity causes or to which the agency or entity contributes. The department may require all private agencies and government entities that receive a payment under this division to share in the cost of an adverse audit finding that a private agency or government entity no longer in existence caused or contributed to.

(D) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include all of the following:

(1) Procedures for a private agency or government entity to pay the special assessment required by division (C) of this section and to request a payment from the department to help defray the cost of training staff and foster parents;

(2) Criteria for the department to determine whether training costs are allowable and reasonable;

(3) Any other requirements the department determines to be necessary to implement this section.

Sec. 5101.15. Within available funds the department of ~~human~~ job and family services may reimburse counties in accordance with this section for a portion of the salaries paid to child welfare workers employed under section 5153.12 of the Revised Code. No county with a population of eighty thousand or less, according to the latest census accepted by the department as official, shall be entitled to reimbursement on the salaries of more than two child welfare workers, and no county with a population of more than eighty thousand, according to such census, shall be entitled to reimbursement on the salaries of more than two child welfare workers plus one additional child welfare worker for each one hundred thousand of population in excess of eighty thousand.

The maximum reimbursement to which a county may be entitled on any child welfare worker shall be as follows:

(A) Twenty-seven hundred dollars a year for a child welfare worker who is a graduate of an accredited high school, college, or university;

(B) Thirty-three hundred dollars a year for a child welfare worker who has one year or more of graduate training in social work or a field which the department finds to be related to social work;

(C) Thirty-nine hundred dollars a year for a child welfare worker who has completed two years of social work training.

The salary of the executive director, designated in accordance with section 5153.10 of the Revised Code, shall be subject to reimbursement under this section, provided that the executive director qualifies under division (A), (B), or (C) of this section. No funds shall be allocated under this section until the director of ~~human~~ job and family services has approved a plan of child welfare services for the county submitted by the public children services agency.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability assistance" means financial and medical assistance provided under Chapter 5115. of the Revised Code.

(2) "Food stamps" means the program administered by the department of ~~human~~ job and family services pursuant to section 5101.54 of the Revised Code.

(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(6) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability assistance;

(f) County administration of disability assistance;

(g) County administration of food stamps;

(h) County administration of medicaid.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability assistance and county administration of disability assistance during the state fiscal year ending in the previous calendar year that the department of ~~human~~ job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3)(a) Except as provided in division (B)(3)(b) of this section, the actual

amount, as determined by the department of ~~human~~ job and family services from expenditure reports submitted to the United States department of health and human services, of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child day-care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105.

(b) For state fiscal years 2000 and 2001, seventy-seven per cent of the amount determined under division (B)(3)(a) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of ~~human~~ job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to a sanction under section 5101.24 of the Revised Code.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of ~~human~~ job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of ~~human~~ job and family services

shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of ~~human~~ job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of ~~human~~ job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of food stamps and medicaid that the department determines are allowable administrative expenditures.

(F) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(1) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(2) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(3) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(4) Other procedures and requirements necessary to implement this

ction.

Sec. 5101.161. Prior to the sixteenth day of May annually, the department of ~~human~~ job and family services shall certify to the board of county commissioners of each county the amount estimated by the department to be needed in the following state fiscal year to meet the county share, as determined under division (B) of section 5101.16 of the Revised Code, of public assistance expenditures. Each January, the board shall appropriate the amount certified by the department and an additional five per cent of that amount. Each June, the board may reappropriate, for any purpose the board determines to be appropriate, the amount appropriated in January that exceeds the total of the amount certified by the department for the last six months of the current state fiscal year and the first six months of the following state fiscal year.

Before the fifteenth day of each payment period the department establishes by rule, the department shall pay a county the estimated state and federal share of the county's public assistance expenditures for that payment period increased or decreased by the amount the department underpaid or overpaid the county for the most recent payment period that the department knows an underpayment or overpayment was made.

If the department establishes a maximum amount that it will reimburse a county for public assistance expenditures and a county spends more for such an expenditure than is reimbursable, the department shall not pay the county a state or, except as provided in section 5101.162 of the Revised Code, a federal share for the amount of the expenditure that exceeds the maximum allowable reimbursement amount. County expenditures that exceed the maximum allowable reimbursement amount shall not be credited to a county's share of public assistance expenditures under section 5101.16 of the Revised Code. The department also shall not pay a county a state or, except as provided in section 5101.162 of the Revised Code, a federal share for an administrative expenditure that is not allowed by the department.

A county shall deposit all funds appropriated by a board of county commissioners and received from the department under this section in a special fund in the county treasury known as the public assistance fund. A county shall make payments for public assistance expenditures from the public assistance fund.

The attorney general shall bring mandamus proceedings in the Franklin county court of appeals against any board of county commissioners that fails to make appropriations or deposits into the public assistance fund required by this section.

The ~~department~~ director of job and family services shall adopt internal

management rules in accordance with section 111.15 of the Revised Code to do all of the following:

(A) Establish the method by which the department is to make payments to counties under this section;

(B) Establish procedures for payment by counties of the county share of public assistance expenditures;

(C) Establish payment periods for paying a county its estimated state and federal share of public assistance expenditures;

(D) Allow county departments of ~~human~~ job and family services to use the public assistance fund for other purposes and programs similar to the purposes and programs specified in this section.

The ~~department~~ director may adopt internal management rules in accordance with section 111.15 of the Revised Code to establish a maximum amount that it will reimburse a county for public assistance expenditures.

Sec. 5101.162. The department of ~~human~~ job and family services may use available federal funds to reimburse county expenditures for county administration of food stamps or medicaid even though the county expenditures exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code if the board of county commissioners has not entered into a partnership agreement with the director of ~~human~~ job and family services under section 5101.21 of the Revised Code. The ~~department~~ director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

Sec. 5101.18. (A) When the ~~department~~ director of ~~human~~ job and family services adopts rules under section 5107.05 regarding income requirements for the Ohio works first program and under section 5115.05 of the Revised Code regarding income and resource requirements for the disability assistance program, the ~~department~~ director shall determine what payments shall be regarded or disregarded. In making this determination, the ~~department~~ director shall consider:

(1) The source of the payment;

(2) The amount of the payment;

(3) The purpose for which the payment was made;

(4) Whether regarding the payment as income would be in the public interest;

(5) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the

receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.

(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old-age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; prevention, retention, and contingency; medicaid; and disability assistance, general assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of ~~human~~ job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the ~~department~~ director of ~~human~~ job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of ~~human~~ job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A or under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)(1) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections

145.27, 742.41, 3307.21, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of ~~human~~ job and family services and the attorney general, to the district director of ~~human~~ job and family services of the district through which public assistance was received, and to the county director of ~~human~~ job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of ~~human~~ job and family services or any county director of ~~human~~ job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the ~~department~~ director of ~~human~~ job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.182. As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5111., or 5115. of the Revised Code, the director of ~~human~~ job and family services shall semiannually, at times determined jointly by the auditor of state and the tax commissioner, furnish to the tax commissioner in computer format the name and social security number of each individual who receives public assistance. Within sixty days after receiving the name and social security number of a recipient of public assistance, the commissioner shall inform the auditor of state whether the individual filed an Ohio individual income tax return, separate or joint, as provided by section 5747.08 of the Revised Code, for either or both of the two taxable years preceding the year in which the director furnished the names and social security numbers to the commissioner. If the individual did so file, at the same time the

commissioner shall also inform the auditor of state of the amount of the federal adjusted gross income as reported on such returns and of the addresses on such returns. The commissioner shall also advise the auditor of state whether such returns were filed on a joint basis, as provided in section 5747.08 of the Revised Code, in which case the federal adjusted gross income as reported may be that of the individual or the individual's spouse.

If the auditor of state determines that further investigation is needed, ~~he~~ the auditor of state may request the commissioner to determine whether the individual filed income tax returns for any previous taxable years in which the individual received public assistance and for which the tax department retains income tax returns. Within fourteen days of receipt of the request, the commissioner shall inform the auditor of state whether the individual filed an individual income tax return for the taxable years in question, of the amount of the federal adjusted gross income as reported on such returns, of the addresses on such returns, and whether the returns were filed on a joint or separate basis.

If the auditor of state determines that further investigation is needed of a recipient of public assistance who filed an Ohio individual income tax return, ~~he~~ the auditor of state may request a certified copy of the Ohio individual income tax return or returns of that person for the taxable years described above, together with any other documents the commissioner has concerning the return or returns. Within fourteen days of receipt of such a request in writing, the commissioner shall forward the returns and documents to the auditor of state.

The director of ~~human~~ job and family services, district director of ~~human~~ job and family services, county director of ~~human~~ job and family services, county prosecutor, attorney general, auditor of state, or any agent or employee of those officials having access to any information or documents furnished by the commissioner pursuant to this section shall not divulge or use any such information except for the purpose of determining overpayment of public assistance, or for an audit, investigation, or prosecution, or in accordance with a proper judicial order. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state or county board, commission, or agency.

Sec. 5101.183. (A) The ~~department~~ director of ~~human~~ job and family services, in accordance with section 111.15 of the Revised Code, may adopt rules under which county departments of ~~human~~ job and family services or public children services agencies shall take action to recover the cost of social services provided to any of the following:

(1) Persons who were not eligible for social services but who secured social services through fraud or misrepresentation;

(2) Persons who were eligible for social services but who intentionally diverted the services to other persons who were not eligible for the services.

(B) A county department of ~~human~~ job and family services or public children services agency may bring a civil action against a recipient of social services to recover any costs described in division (A) of this section.

(C) A county department of ~~human~~ job and family services or public children services agency shall retain any money it recovers under division (A) of this section and shall use the money for the provision of social services, except that, if federal law requires the ~~state~~ department of ~~human~~ job and family services to return any portion of the money so recovered to the federal government, the county department or agency shall pay that portion to the ~~state~~ department of job and family services.

Sec. 5101.184. (A) The director of ~~human~~ job and family services shall work with the tax commissioner to collect overpayments of assistance under Chapter 5107., 5111., or 5115., former Chapter 5113., or sections 5101.54 to 5101.543 of the Revised Code from refunds of state income taxes for taxable year 1992 and thereafter that are payable to the recipients of such overpayments.

Any overpayment of assistance, whether obtained by fraud or misrepresentation, as the result of an error by the recipient or by the agency making the payment, or in any other manner, may be collected under this section. Any reduction under section 5747.12 or 5747.121 of the Revised Code to an income tax refund shall be made before a reduction under this section. No reduction shall be made under this section if the amount of the refund is less than twenty-five dollars after any reduction under section 5747.12 of the Revised Code. A reduction under this section shall be made before any part of the refund is contributed under section 5747.113 of the Revised Code to the natural areas and preserves fund or the nongame and endangered wildlife fund, or is credited under section 5747.12 of the Revised Code against tax due in any subsequent year.

The director and the tax commissioner, by rules adopted in accordance with Chapter 119. of the Revised Code, shall establish procedures to implement this division. The procedures shall provide for notice to a recipient of assistance and an opportunity for ~~him~~ the recipient to be heard before ~~his~~ the recipient's income tax refund is reduced.

(B) The director of ~~human~~ job and family services may enter into agreements with the federal government to collect overpayments of assistance from refunds of federal income taxes that are payable to

recipients of the overpayments.

Sec. 5101.19. (A) Upon determining that a person or persons are eligible for aid payments under Chapter 5107. or 5115. of the Revised Code, an identification card shall be issued to the individual designated to receive warrants for aid payments. Such cards may be made up and issued by the county department of ~~human~~ job and family services, or the department of ~~human~~ job and family services may enter into a contract with any person, corporation, or agency, public or private, to furnish cards to individuals certified by the county department. The department of ~~human~~ job and family services shall determine the card's material, design, and informational content, which shall include a photograph, social security number, name and signature, and shall prescribe the procedure by which it is issued.

(B) Any county department of ~~human~~ job and family services which on July 7, 1972 is furnishing identification cards to individuals designated to receive warrants for aid payments under Chapter 5107. of the Revised Code, may continue to issue such cards and may issue identification cards to individuals designated to receive warrants for aid payments under Chapter 5115. of the Revised Code under procedures developed by the county, in lieu of those established under division (A) of this section, provided:

(1) The information borne on the card is substantially the same as that required in division (A) of this section;

(2) The county complies with any regulations adopted by the ~~department~~ director of ~~human~~ job and family services which are applicable to such a procedure.

(C) The individual designated to receive warrants for aid payments shall present the identification card issued under this section as a condition for the acceptance and payment of the warrants. All expenses incurred in the issuance of identification cards under this section shall be paid from funds appropriated to the department of ~~human~~ job and family services.

Sec. 5101.212. If the director of ~~human~~ job and family services enters into an agreement or contracts with, or issues a grant to, a religious organization under section 5101.211 of the Revised Code, the religious organization shall comply with section 104 of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 (P.L. 104-193).

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of ~~human~~ job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of

the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the ~~state~~ department of ~~human~~ job and family services, a county agency, or an entity performing duties on behalf of the ~~state~~ department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Public assistance" means financial assistance, medical assistance, or social services provided under a program administered by the ~~state~~ department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., 5111., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

(F) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.27. (A) Except as permitted by this section, section 5101.28 or 5101.29 of the Revised Code, or the rules adopted under division (A) of section 5101.30 of the Revised Code, or required by federal law, no person or government entity shall solicit, disclose, receive, use, or knowingly permit, or participate in the use of any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program.

(B)(1) To the extent permitted by federal law, the ~~state~~ department of ~~human~~ job and family services and county agencies shall release information regarding a public assistance recipient for purposes directly connected to the administration of the program to a government entity responsible for administering a public assistance program or any other state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the

purpose of protecting children to a government entity responsible for administering a children's protective services program.

(2) To the extent permitted by federal law, the ~~state~~ department and county agencies shall provide information regarding a public assistance recipient to a law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of a public assistance program.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the ~~state~~ department and county agencies shall provide access to information regarding a public assistance recipient to all of the following:

(1) The recipient;

(2) The authorized representative, as defined in rules adopted under section 5101.30 of the Revised Code, of the recipient;

(3) The parent or guardian of the recipient;

(4) The attorney of the recipient, if the attorney has written authorization from the recipient.

(D) To the extent permitted by federal law, the ~~state~~ department and county agencies may release information about a public assistance recipient if the recipient gives voluntary, written consent that specifically identifies the persons or government entities to which the information may be released.

The ~~state~~ department or county agency shall release the information only to the persons or government entities specified in the document evidencing consent. Consent may be time-limited or ongoing, at the discretion of the individual giving it, and may be rescinded at any time; however, an individual cannot rescind consent retroactively. The document evidencing consent must state that consent may be rescinded.

The ~~state~~ department or a county agency may release information under this division concerning a receipt of medical assistance under Chapter 5111. of the Revised Code only if both of the following are the case:

(1) The release of information is for purposes directly connected to the administration of programs created under Chapter 5111. of the Revised Code or services provided under programs created under that chapter;

(2) The information is released to persons or government entities that are subject to standards of confidentiality and safeguarding information substantially comparable to those established for programs created under Chapter 5111. of the Revised Code.

Sec. 5101.28. (A) The ~~state~~ department of ~~human~~ job and family services shall enter into written agreements with law enforcement agencies to exchange, obtain, or share information regarding public assistance

recipients to enable the ~~state~~ department, county agencies, and law enforcement agencies to determine whether a recipient or a member of a recipient's assistance group is either of the following:

(1) A fugitive felon;

(2) Violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(B) The ~~state~~ department and county agencies shall provide information regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a recipient shall be exchanged, obtained, or shared only if the ~~state~~ department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The ~~state~~ department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the ~~state~~ department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the ~~state~~ department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the

Revised Code and to any other government entity authorized by ~~state~~ or federal law to conduct an audit of or similar activity involving a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons and probation and parole violators apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the ~~state~~ department of ~~human~~ job and family services, county departments of ~~human~~ job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

Sec. 5101.29. When contained in a record held by the ~~state~~ department of ~~human~~ job and family services or a county agency, the following are not public records for purposes of section 149.43 of the Revised Code:

(A) Names and other identifying information regarding children enrolled in or attending a child day-care center or home subject to licensure, certification, or registration under Chapter 5104. of the Revised Code;

(B) Names and other identifying information regarding a person who makes an oral or written complaint regarding a child day-care center or home subject to licensure, certification, or registration to the ~~state~~ department or other state or county entity responsible for enforcing Chapter 5104. of the Revised Code.

Sec. 5101.30. (A) The ~~state department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code implementing sections 5101.26 to 5101.30 of the Revised Code and governing the custody, use, and preservation of the information generated or received by the ~~state~~ department of job and family services, county agencies, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of public assistance programs. The rules shall specify conditions and procedures for the release of information. The rules shall comply with applicable federal

statutes and regulations. To the extent permitted by federal law:

(1) The rules may permit providers of services or assistance under public assistance programs limited access to information that is essential for the providers to render services or assistance or to bill for services or assistance rendered. The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules pursuant to division (A)(1) of this section.

(2) The rules may permit a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the ~~state~~ department or county agency. A contractor, grantee, or entity given access to information pursuant to division (A)(2) of this section is bound by the ~~state department's~~ director's rules, and disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5101.27 of the Revised Code.

(B) Whenever names, addresses, or other information relating to public assistance recipients is held by any agency other than the ~~state~~ department or a county agency, that other agency shall adopt rules consistent with sections 5101.26 to 5101.30 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5101.31. (A) As used in this section:

(1) "Cable television service" has the same meaning as in section 2913.01 of the Revised Code.

(2) "Child support order" has the same meaning as in section 2301.373 of the Revised Code.

(3) "Law enforcement entity" means a public entity that employs a law enforcement officer.

(4) "Obligor" and "obligee" have the same meanings as in section 3113.21 of the Revised Code.

(5) "Public utility" means a person or entity, including an entity owned or operated by a municipal corporation or other government entity, that is described in division (A) of section 4905.03 of the Revised Code as a telephone company, electric light company, gas company, natural gas company, water-works company, heating or cooling company, or sewage disposal system company, or that is providing cable television service.

(6) "Support order" has the same meaning as in section 2301.34 of the Revised Code.

(B) The division of child support is hereby created in the department of ~~human~~ job and family services. The division shall establish and administer a

program of child support enforcement, which program shall meet the requirements of Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, and any rules adopted under Title IV-D. The program of child support enforcement shall include, but not be limited to, the location of absent parents, the establishment of parentage, the establishment and modification of child support orders and medical support orders, the enforcement of support orders, and the collection of support obligations.

As part of its efforts to establish parentage, the division shall develop a program to publicize the state procedures for establishing the existence of a parent and child relationship and the advantages of establishing such a relationship. The division may require any board, commission, or agency of the state to participate in the publicity program.

The department shall charge an application fee of up to twenty-five dollars, as determined by rule adopted by the ~~department~~ director of job and family services pursuant to Chapter 119. of the Revised Code, for furnishing services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, to persons not participating in Ohio works first under Chapter 5107. of the Revised Code. The ~~department~~ director shall adopt rules pursuant to Chapter 119. of the Revised Code authorizing counties, at their option, to waive the payment of the fee. The application fee, unless waived pursuant to rules adopted by the ~~department~~ director pursuant to this section, shall be paid by those persons.

(C) The division of child support shall establish, by rule adopted pursuant to Chapter 119. of the Revised Code, a program of spousal support enforcement in conjunction with child support enforcement. The program shall conform, to the extent practicable, to the program for child support enforcement established pursuant to division (B) of this section.

(D) The department of ~~human~~ job and family services shall enter into an agreement with the secretary of health and human services, as authorized by the "Parental Kidnapping Prevention Act of 1980," 94 Stat. 3572, 42 U.S.C. 663, as amended, under which the services of the parent locater service established pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, shall be made available to this state for the purpose of determining the whereabouts of any absent parent or child in order to enforce a law with respect to the unlawful taking or restraint of a child, or to make or enforce a determination as to the allocation, between the parents of a child, of the parental rights and responsibilities for the care of a child and the designation of the residential parent and legal custodian of a child or otherwise as to the custody of a

child.

(E) The division of child support shall not use any social security number made available to it under section 3705.07 of the Revised Code for any purpose other than child support enforcement.

(F)(1) Except as provided by the rules adopted pursuant to division (F)(2) of this section, no person shall do either of the following:

(a) Disclose information concerning applicants for and recipients of Title IV-D support enforcement program services provided by a child support enforcement agency;

(b) Disclose any information collected pursuant to division (G) of this section.

(2) The ~~division~~ director of ~~child support~~ job and family services shall adopt rules governing access to, and use and disclosure of, the information described in division (F)(1) of this section. The rules shall be consistent with the requirements of Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, and any rules adopted under Title IV-D.

(G)(1) Except as provided in division (G)(4) of this section, the division of child support shall have access to all of the following unless release of the information is prohibited by federal or state law:

(a) Any information in the possession of any officer or entity of the state or any political subdivision of the state that would aid the division in locating an absent parent or child pursuant to division (D) of this section;

(b) Any information concerning the employment, compensation, and benefits of any obligor or obligee subject to a support order in the possession of any person;

(c) The name and address of any obligor or obligee subject to a support order and the obligor's or obligee's employer in the customer records of a public utility.

(2) The person or entity required to provide information pursuant to division (G)(1) of this section, may provide such information to a child support enforcement agency at the agency's request or require the agency to request that the division of child support request the information for the agency. The division shall request the information from the person or entity on the request of a child support enforcement agency.

(3) An officer or entity of the state or political subdivision of the state or any other person who provides information pursuant to this division shall not be subject to criminal or civil liability for providing the information.

(4)(a) The department of taxation shall not provide any information to the division, except as provided in division (G)(4) of this section. For purposes of the establishment of paternity, the establishment, modification,

or enforcement of support orders, and the location of absent parents pursuant to child support enforcement activities, the division of child support is authorized to have access to information concerning the residential address, employer, income, and assets of taxpayers if that information is contained in the state tax records maintained by the department. The division shall reimburse the department for the cost of access to, and obtainment of, the information described in division (G)(4)(a) of this section. The department of taxation shall not provide any information to the division if the provision of the information is prohibited by state or federal law.

(b) The department of taxation or its officers and employees shall not be subject to criminal or civil liability for providing access to the information described in division (G)(4)(a) of this section. The information obtained pursuant to division (G)(4)(a) of this section is subject to the nondisclosure requirements of division (F) of this section.

(5) No person or entity, other than an officer or entity of the state or a political subdivision of the state, shall fail to provide information as required by division (G)(1) or (2) of this section. A person or entity that fails to provide the information may be fined five hundred dollars. The department of ~~human~~ job and family services shall file an action in the court of common pleas of Franklin county, requesting that the court impose the fine for failure to provide the information. If the court determines that the person or entity failed to provide the information, it may impose the fine. The court shall direct that the fine be paid to the department of ~~human~~ job and family services.

Sec. 5101.312. (A) As used in this section:

(1) "Support order" has the same meaning as in section 2301.34 of the Revised Code.

(2) "Employee" does not include an individual performing intelligence or counterintelligence functions for a state agency, if the head of the agency has determined that reporting pursuant to this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(3) "Employer" means any person or governmental entity other than the federal government for which an individual performs any service, of whatever nature, as the employee of such person, except that:

(a) If the person for whom the individual performs services does not have control of the payment of compensation for the services, "employer" means the person having control of the payment of the compensation;

(b) In the case of a person paying compensation on behalf of a

nonresident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the United States, "employer" means the person paying the compensation.

(4) "Obligor" means a person required to pay support under a support order.

(B)(1) Except as provided in division (B)(2) of this section, every employer shall report to the department of ~~human~~ job and family services the hiring, rehiring, or return to work as an employee of a person who resides, works, or will be assigned to work in this state to whom the employer anticipates paying compensation.

(2) An employer that has employees in two or more states and that transmits reports magnetically or electronically may make the report required by this section to another state if the employer does both of the following:

(a) Notifies the Ohio department of ~~human~~ job and family services and the United States secretary of health and human services in writing that the employer has designated another state as the state to which the employer will transmit the report;

(b) Transmits the report to that state in compliance with federal law.

(C) An employer shall include all of the following in each report:

(1) The employee's name, address, date of birth, social security number, and date of hire, rehire, or return to work;

(2) The employer's name, address, and identification number.

(D) An employer may make a report by submitting a copy of the United States internal revenue service form W-4 (employee's withholding allowance certificate) for the employee, a form provided by the department, or any other hiring document or data storage device or mechanism the department authorizes. An employer may make the report by mail, fax, magnetic or electronic means, or other means the department authorizes. If an employer makes a report by mail, the date of making the report is the postmark date if the report is mailed in the United States with first class postage and is addressed as the department authorizes. An employer shall make the report not later than twenty days after the date on which the employer hires or rehires an employee or the employee returns to work.

(E)(1) The department shall, within five days of receipt from an employer, enter the information described in division (C) of this section into a directory, which shall be part of or accessible to the automated data processing system required pursuant to section 5101.322 of the Revised Code.

(2) The department shall make comparisons of the social security

numbers obtained pursuant to this section and the social security numbers appearing in the registry maintained pursuant to section 5101.319 of the Revised Code.

(3) Within two business days after information is entered into the directory pursuant to this division, if the comparison conducted by the department pursuant to division (E)(2) of this section results in a match the department shall notify the child support enforcement agency administering the support order. On receipt of the notice the agency shall send a notice to the employer pursuant to division (B) of section 3111.23 or division (D) of section 3113.21 of the Revised Code, unless the employee's income is not subject to withholding, and shall take any other appropriate action under sections 3111.20 to 3111.28 and 3113.21 to 3113.219 of the Revised Code.

(4)~~(a)~~ Within three business days after information is entered into the directory pursuant to this division, the department shall furnish the information to the national directory of new ~~hires.~~

~~(b)~~ hires. The ~~bureau of employment services~~ department shall furnish to the national directory of new hires on a quarterly basis such information contained in the records of the ~~bureau of employment services~~ department as is required by state and federal law.

(F) The department shall use the reports it receives pursuant to this section to locate individuals for the purposes of establishing paternity; establishing, modifying, and enforcing support orders being administered by child support enforcement agencies in this state; and to detect fraud in any program administered by the department. The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

The reports shall not be considered public records for purposes of section 149.43 of the Revised Code, and the department may adopt rules under section 5101.31 of the Revised Code governing access to, and use and disclosure of, information contained in the reports. The ~~department~~ director of job and family services may disclose information in the reports to any agent of the department or child support enforcement agency that is under contract with the department for the purposes listed in this division. The ~~department~~ director may submit to the bureau of workers' compensation ~~or the bureau of employment services~~ a copy of any report it receives from an employer pursuant to this section.

(G) An employer who fails to make a report required by this section shall be required by the department of ~~human~~ job and family services to pay a fee of less than twenty-five dollars for each failure to make a report.

If the failure to make a report is the result of a conspiracy between the

employer and the employee not to supply the report or to supply a false or incomplete report, the department of ~~human~~ job and family services shall require the employer to pay a fee of less than five hundred dollars for each such failure.

Sec. 5101.313. The division of child support in the department of ~~human~~ job and family services and a child support enforcement agency may examine the putative father registry established under section 3107.062 of the Revised Code to locate an absent parent for the purpose of the division or agency carrying out its duties under the child and spousal support enforcement programs established under section 5101.31 of the Revised Code. Neither the division nor an agency shall use the information it receives from the registry for any purpose other than child and spousal support enforcement.

Sec. 5101.314. (A)(1) The natural father, natural mother, or other custodian or guardian of a child, a child support enforcement agency pursuant to section 3111.21 of the Revised Code, a local registrar of vital statistics pursuant to section 3705.091 of the Revised Code, or a hospital staff person pursuant to section 3727.17 of the Revised Code, in person or by mail, may file an acknowledgment of paternity with the division of child support in the department of ~~human~~ job and family services, acknowledging that the child is the child of the natural father who signed the acknowledgment. The acknowledgment of paternity shall be made on the affidavit prepared pursuant to section 5101.324 of the Revised Code, shall be signed by the natural father and the natural mother, and each signature shall be notarized. The natural father and mother may sign and have the signature notarized outside of each other's presence. An acknowledgment shall be sent to the division no later than ten days after it has been signed and notarized. If a person knows a man is presumed under section 3111.03 of the Revised Code to be the father of the child described in this section, the person shall not notarize or file an acknowledgment with respect to the child pursuant to this section.

(2)(a) On the filing of an acknowledgment pursuant to division (A)(1) of this section, the division shall examine the acknowledgment to determine whether it is completed correctly. The division shall make the examination no later than five days after the acknowledgment is filed. If the acknowledgment is completed correctly, the division shall comply with division (A)(2)(b) of this section. If the acknowledgment is not completed correctly, the division shall return it to the person or entity that filed it. The person or entity shall have ten days from the date the division sends the acknowledgment back to correct it and return it to the division. The division

shall send, along with the acknowledgment, a notice stating what needs to be corrected and the amount of time the person or entity has to make the corrections and return the acknowledgment to the division.

If the person or entity returns the acknowledgment in a timely manner, the division shall examine the acknowledgment again to determine whether it has been correctly completed. If the acknowledgment has been correctly completed, the division shall comply with division (A)(2)(b) of this section. If the acknowledgment has not been correctly completed the second time or if the acknowledgment is not returned to the division in a timely manner, the acknowledgment is invalid and the division shall return it to the person or entity and shall not enter it into the birth registry. If the division returns an acknowledgment the second time, it shall send a notice to the person or entity stating the errors in the acknowledgment and that the acknowledgment is invalid.

(b) If the division determines an acknowledgment is correctly completed, the division shall enter the information on the acknowledgment into the birth registry pursuant to division (D) of this section. After entering the information in the registry, the division shall send the acknowledgment to the department of health for storage pursuant to section 3705.091 of the Revised Code. The division may request that the department of health send back to the division any acknowledgment that is being stored by the department of health pursuant to that section.

(3) An acknowledgment of paternity is final and enforceable without ratification by a court when either of the following has occurred:

(a) The acknowledgment has become final pursuant to section 2151.232 or 3111.211 of the Revised Code.

(b) The acknowledgment has been filed pursuant to division (A)(1) of this section, the information on the acknowledgment has been entered in the birth registry pursuant to division (D) of this section, the acknowledgment has not been rescinded pursuant to division (B) of this section, and more than sixty days have elapsed since the date of the last signature on the acknowledgment.

Thereafter, the child is the child of the man who signed the acknowledgment of paternity, as though born to him in lawful wedlock, and, if the mother is unmarried, the man who signed the acknowledgment of paternity, the parents of the man who signed the acknowledgment of paternity, any relative of the man who signed the acknowledgment of paternity, the parents of the mother, and any relative of the mother may file a complaint pursuant to section 3109.12 of the Revised Code requesting the granting under that section of reasonable companionship or visitation rights

with respect to the child.

(4) Once the acknowledgment becomes final pursuant to this section or section 2151.232 or 3111.211 of the Revised Code, all of the following apply:

(a) The man who signed the acknowledgment of paternity assumes the parental duty of support. Notwithstanding section 3109.01 of the Revised Code, the parental duty of support of the father to the child shall continue beyond the age of majority as long as the child attends on a full-time basis any recognized and accredited high school or a child support order provides that the duty of support continues beyond the age of majority. Except in cases in which a child support order provides that the duty of support continues for any period after the child reaches nineteen years of age, the order shall not remain in effect after the child reaches nineteen years of age.

(b) The mother or other custodian or guardian of the child may file a complaint pursuant to section 2151.231 of the Revised Code in the court of common pleas of the county in which the child or the guardian or legal custodian of the child resides requesting the court to order the father to pay an amount for the support of the child, may contact the child support enforcement agency for assistance in obtaining the order, or may request an administrative officer of a child support enforcement agency to issue an administrative order for the payment of child support pursuant to division (D) of section 3111.20 of the Revised Code.

(c) The division shall notify the department of health of the acknowledgment. If the original birth record is inconsistent with the acknowledgment that has become final, on receipt of the notice, the department of health shall, in accordance with section 3705.09 of the Revised Code, prepare a new birth record consistent with the acknowledgment that has become final and substitute the new record for the original birth record.

(B)(1) No later than sixty days after the date of the latest signature on an acknowledgment of paternity filed with the division pursuant to division (A) of this section, either person who signed the acknowledgment may rescind it by doing both of the following:

(a) Requesting a determination of the existence or nonexistence of a parent and child relationship pursuant to section 3111.22 of the Revised Code with respect to the child who is the subject of the acknowledgment.

(b) Notifying the division in writing that the party has complied with the requirements of division (B)(1)(a) of this section and the name of the child support enforcement agency conducting the genetic tests.

On the same day that the division receives the notice described in

division (B)(1)(b) of this section, it shall contact the agency indicated in the notice to verify that the party sending the notice has complied with the requirements of division (B)(1)(a) of this section. If the division verifies compliance with division (B)(1)(a) of this section and the notice under division (B)(1)(b) of this section was sent within the time limit required by this division, the recision of the acknowledgment shall be effective as of the date the division received the notice. If the division is unable to verify that the requirement of division (B)(1)(a) of this section has been met, the acknowledgment shall not be rescinded.

(2) After an acknowledgment becomes final pursuant to this section or section 2151.232 or 3111.211 of the Revised Code, a man presumed to be the father of the child pursuant to section 3111.03 of the Revised Code who did not sign the acknowledgment, either person who signed the acknowledgment, or a guardian or legal custodian of the child may bring an action to rescind the acknowledgment on the basis of fraud, duress, or material mistake of fact. The court shall treat the action as an action to determine the existence or nonexistence of a parent and child relationship pursuant to sections 3111.01 to 3111.19 of the Revised Code. An action pursuant to division (B)(2) of this section shall be brought no later than one year after the acknowledgment becomes final. The action may be brought in one of the following courts in the county in which the child, the guardian or custodian of the child, or either person who signed the acknowledgment resides:

(a) The juvenile court;

(b) The domestic relations division of the court of common pleas that has jurisdiction pursuant to section 2301.03 of the Revised Code to hear and determine cases arising under Chapter 3111. of the Revised Code.

(C) A court or child support enforcement agency, whichever is applicable, shall file the following with the division:

(1) An order issued pursuant to section 3111.13 of the Revised Code on or after the effective date of this amendment.

(2) An order issued pursuant to section 3111.22 of the Revised Code on or after the effective date of this amendment that has become final and enforceable.

On the filing of an order pursuant to division (C) of this section, the division shall enter the information on the order in the birth registry pursuant to division (D) of this section.

(D)(1) The division of child support in the department of ~~human~~ job and family services shall establish and maintain a birth registry that shall contain all of the following information contained in orders determining the

existence of a parent and child relationship and acknowledgments of paternity required to be filed with the division pursuant to division (A) or (C) of this section:

(a) The names of the parents of the child subject to the order or acknowledgment;

(b) The name of the child;

(c) The resident address of each parent and each parent's social security number.

(2) The registry established pursuant to this section shall be maintained as part of and be accessible through the automated system created pursuant to section 5101.322 of the Revised Code. The division shall make comparisons of the information in the registry with the information maintained by the department of ~~human~~ job and family services pursuant to sections 5101.312 and 5101.313 of the Revised Code. The department shall make the comparisons in the manner and in the time intervals required by the rules adopted pursuant to division (E) of this section.

(E) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement the requirements of this section that are consistent with Title IV-D of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105., 42 U.S.C. 651 et seq.

(F) As used in this section, "birth record" has the same meaning as in section 3705.01 of the Revised Code.

Sec. 5101.315. (A) As used in this section:

(1) "Financial institution," "obligor," and "obligee" have the same meanings as in section 3113.21 of the Revised Code.

(2) "Support order" has the same meaning as in section 2301.34 of the Revised Code.

(B) The division of child support in the department of ~~human~~ job and family services shall enter into an agreement with at least one financial institution doing business in this state. The agreement shall provide the division access to account information specified in this section for the purposes of establishing, modifying, or enforcing support orders. The agreement shall specify the manner in which the information is to be provided and shall require that the division be afforded access to the following information each calendar quarter concerning all obligors in default under support orders being administered by child support enforcement agencies in this state who maintain an account with the financial institution:

(1) The obligor's name;

(2) The obligor's address;

(3) The obligor's social security number or taxpayer identification number;

(4) The type of account maintained by the obligor, such as a savings, checking, or money market mutual fund account;

(5) Whether another person has an ownership interest in the account, including a list of all persons having an ownership interest in the account as reflected on the signature card or similar document on file with the financial institution;

(6) Any other information agreed to by the parties.

(C) A financial institution that responds to a request or provides information to the division pursuant to an agreement entered into under this section shall be reimbursed for the actual, reasonable costs incurred in responding to the request or providing the information, including salaries, benefits, equipment, computer software, and any modifications to processing or record-keeping systems made necessary by this section.

(D) Information obtained from a financial institution pursuant to an agreement entered into under division (B) of this section is not a public record for the purposes of section 149.43 of the Revised Code. No person or government entity that obtains information concerning an account holder from a financial institution pursuant to an agreement under division (B) of this section shall disclose the information for purposes other than the establishment, modification, or enforcement of a support order.

(E) Financial institutions or their officers, directors, and employees shall not be subject to criminal or civil liability for disclosing or releasing information concerning an account holder to the division pursuant to an agreement entered into under division (B) of this section, or for any other action taken in good faith to comply with such an agreement, regardless of whether such action was specifically authorized or described in the agreement.

(F) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that do the following:

(1) Govern the provisions of an agreement required pursuant to this section and the procedure for entering into such an agreement;

(2) Govern reimbursements under division (C) of this section.

Sec. 5101.316. The department of ~~human~~ job and family services may enter into an agreement with a foreign country for the establishment of and enforcement of support orders issued under the laws of that country if that

country, as part of the agreement, agrees to enforce support orders issued under the laws of this state. The department must provide services under the program of support enforcement established pursuant to this section to a foreign country with which the department has an agreement under this section and to a foreign country declared to be a foreign reciprocating country under section 459A of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, 42 U.S.C. 659A, that requests the services. The department shall provide the services without imposing an application fee or any other cost on the foreign country or the obligee requesting the services. The department may impose the application fee or other costs on the obligor under the support order. The ~~department~~ director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the procedure for entering into a contract pursuant to this section, the provisions of the contract, and the provision of support enforcement services, which rules shall be consistent with sections 454 and 459A of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, 42 U.S.C. 654 and 659A and regulations adopted under the act.

Sec. 5101.317. (A) The department of ~~human~~ job and family services shall provide annual reviews of and reports to the secretary of health and human services concerning programs operated under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, pursuant to rules adopted ~~by the department~~ under division (B) of this section.

(B) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:

(1) Procedures for annual reviews of and reports to the secretary of health and human services on the programs operated under Title IV-D of the "Social Security Act," as amended, including information necessary to measure compliance with federal requirements for expedited procedures;

(2) Procedures for transmitting data and calculations regarding levels of accomplishment and rates of improvement for paternity establishment and child support enforcement from the automatic data processing system required under section 5101.322 of the Revised Code to the secretary of health and human services.

Sec. 5101.319. (A) As used in this section:

(1) "Child support order" has the same meaning as in section 2301.373

of the Revised Code.

(2) "Support order," "obligor," and "obligee" have the same meaning as in section 2301.34 of the Revised Code.

(B) The division of child support in the department of ~~human~~ job and family services shall establish and maintain a case registry of all support orders being administered or otherwise handled by a child support enforcement agency. The registry shall include all of the following information:

(1) The name, social security number, driver's license number, other identification number, residence telephone number, and date of birth of each obligor and obligee under a support order;

(2) Payment information including the periodic support amount due, arrearages, penalties for late payment, fees, amounts collected, and amounts distributed under a support order;

(3) Liens imposed on real and personal property to recover arrearages under a support order;

(4) With respect to a child support order, the name and birthdate of each child subject to the order;

(5) Information obtained pursuant to an agreement under section 5101.315 of the Revised Code;

(6) Any other information required by ~~the department of human services pursuant to~~ rules adopted under division (F) of this section.

(C) The registry established pursuant to this section shall be maintained as part of the automated system created pursuant to section 5101.322 of the Revised Code and shall be accessed through the system. The division and each child support enforcement agency shall monitor and update the registry, and each agency shall enter the information described in division (B) of this section in the registry in accordance with rules adopted pursuant to division (F) of this section.

(D) The division shall make comparisons of the information in the registry with the information maintained by the department of ~~human~~ job and family services pursuant to sections 5101.312 and 5101.314 of the Revised Code. The division shall make the comparisons in the manner and in the time intervals required by the rules adopted pursuant to division (F) of this section. The division shall make reports of information in the registry to other entities of the state, the federal government, and other states as required by the rules adopted pursuant to division (F) of this section.

(E)(1) Each child support enforcement agency shall enter information into the case registry and maintain and update that information consistent with sections 454 and 454A of the "Social Security Act" as amended by the

"Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, 42 U.S.C. 654 and 654A and any federal regulations adopted under the act.

(2) The division and each child support enforcement agency shall monitor the registry consistent with sections 454 and 454A of the "Social Security Act" as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," and any federal regulations adopted under the act.

(3) The division shall make comparisons of information in the case registry with information maintained by the department pursuant to sections 5101.312 and 5101.314 of the Revised Code and provide information in the case registry to other entities of the state, the federal government, and other states consistent with sections 453A(f), 454(16) and (28), 454A(f), and 466(a)(5)(M) of the "Social Security Act" as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 42 U.S.C. 653A(f), 654(16) and (28), 654A(f), and 666(a)(5)(M) and any federal regulations adopted under the act.

(F) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that do both of the following:

(1) Establish procedures governing actions required by division (E) of this section;

(2) Designate any additional information that must be placed in the case registry consistent with section 454A(e)(3) of the "Social Security Act" as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 42 U.S.C. 654A(e)(3) and any federal regulations adopted under the act.

Sec. 5101.32. The division of child support created in the department of ~~human~~ job and family services under section 5101.31 of the Revised Code shall work with the secretary of the treasury to collect past-due child support from refunds of paid federal taxes that are payable to the individual who owes the past-due support in accordance with section 664 of Title IV-D of the "Social Security Act," 95 Stat. 860 (1981), 42 U.S.C. 664, as amended. The ~~division~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish procedures necessary to obtain payments of past-due support from federal tax overpayments made to the secretary.

Sec. 5101.321. (A) The division of child support created in the department of ~~human~~ job and family services under section 5101.31 of the Revised Code shall work with the tax commissioner to collect overdue child

support from refunds of paid state income taxes under Chapter 5747. of the Revised Code that are payable to obligors.

(B) No overdue child support shall be collected from refunds of paid state income taxes as provided in division (A) of this section unless all of the following conditions are met:

(1) Any reduction authorized by section 5747.12 of the Revised Code has first been made, except as otherwise provided in division (B) of this section;

(2) The refund payable to the obligor is not less than twenty-five dollars after any reduction pursuant to section 5747.12 of the Revised Code;

(3) The obligor is not less than three months in arrears in ~~his~~ the obligor's payment of child support and the amount of the arrearage is not less than one hundred fifty dollars.

Overdue child support shall be collected from such refunds before any part of the refund is used as a contribution pursuant to section 5747.113 of the Revised Code. Overdue child support shall be collected from such refunds before the refund or any part of the refund is credited against tax due in any subsequent year pursuant to section 5747.12 of the Revised Code, notwithstanding the consent of the obligor for such crediting.

(C) The ~~division~~ director of job and family services, in conjunction with the tax commissioner, shall adopt rules, pursuant to Chapter 119. of the Revised Code, to establish procedures to implement this section. These procedures shall embody principles of due process of law, including, but not limited to, notices to interested parties and opportunities to be heard prior to the reduction of any state income tax refund.

(D) As used in this section, "obligor" means a person who owes "overdue support," as defined in section 666 of Title IV-D of the "Social Security Act," 98 Stat. 1306 (1984), 42 U.S.C. 666, as amended, and any rules promulgated under Title IV-D.

Sec. 5101.322. (A) The department of ~~human~~ job and family services shall establish and maintain a statewide, automated data processing system in compliance with Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, to support the enforcement of child support that shall be implemented in every county. Every county shall accept the automated system and, in accordance with the written instructions of the department for the implementation of the automated system, shall convert to the automated system all records that are maintained by any county entity and that are related to any case for which a local agency is enforcing a child support order in accordance with Title

IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended by the "Personal Responsibility and Work Reconciliation Act of 1996," 110 Stat. 2105.

(B) The ~~department~~ director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code concerning access to, and use of, data maintained in the automated system that do the following:

(1) Permit access to and use of data only to the extent necessary to carry out programs under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, and specify the data that may be used for particular program purposes, and the personnel permitted access to the data;

(2) Require monitoring of access to and use of the automated system to prevent and promptly identify unauthorized use;

(3) Establish procedures to ensure that all personnel who may have access to or be required to use data are informed of applicable requirements and penalties and have been trained in security procedures;

(4) Establish administrative penalties, up to and including dismissal from employment, for unauthorized access to, or disclosure or use of, data.

Sec. 5101.323. (A)(1) The division of child support in the department of ~~human~~ job and family services shall establish a program to increase child support collections by publishing and distributing a series of posters displaying child support obligors who are delinquent in their support payments. Each poster shall display photographs of, and information about, ten obligors who are liable for support arrearages and whose whereabouts are unknown to child support enforcement agencies. Each poster shall list a toll-free telephone number for the division of child support that may be called to report information regarding the whereabouts of any of the obligors displayed on a poster. The division may include any other information on the poster that it considers appropriate.

(2) Any child support enforcement agency that chooses to participate in the poster program established under division (A)(1) of this section may submit names of obligors that meet the criteria in division (B) of this section to the division. The division shall select obligors to be displayed on a poster from the names submitted by the agencies.

(3) The division shall send notice to each obligor whose name was submitted to be displayed on the poster. The notice shall be sent by regular mail to the obligor's last known address and shall state that the obligor may avoid being included on the poster by doing all of the following within ninety days after receipt of the notice:

(a) Make a payment to the division of child support or, pursuant to division (H)(4) of section 2301.35 of the Revised Code, the child support enforcement agency that is at least equal to the amount of support the obligor is required to pay each month under the support order;

(b) Provide the child support enforcement agency with the obligor's current address;

(c) Provide the agency with evidence from each of the obligor's current employers of the obligor's current wages, salary, and other compensation;

(d) Provide the agency with evidence that the obligor has arranged for withholding from the obligor's wages, salary, or other compensation to pay support and for payment of arrearages.

(4) The child support enforcement agency shall determine whether any obligor whose name was submitted to be displayed on a poster has met all the conditions of division (A)(3) of this section. If it determines that an obligor has done so, it shall give the division notice of its determination. On receipt of the notice from the agency, the division shall remove the obligor from the list of obligors submitted by that agency before making the final selection of obligors for the poster.

(5) The division shall publish and distribute the first set of posters throughout the state not later than October 1, 1992. The division shall publish and distribute subsequent sets of posters not less than twice annually.

(B) A child support enforcement agency may submit the name of a delinquent obligor to the division for inclusion on a poster only if all of the following apply:

(1) The obligor is subject to a support order and there has been an attempt to enforce the order through a public notice, a wage withholding order, a lien on property, a financial institution deduction order, or other court-ordered procedures.

(2) The department of ~~human~~ job and family services reviewed the obligor's records and confirms the child support enforcement agency's finding that the obligor's name and photograph may be submitted to be displayed on a poster.

(3) The agency does not know or is unable to verify the obligor's whereabouts.

(4) The obligor is not a participant in Ohio works first or the prevention, retention, and contingency program or a recipient of disability assistance, supplemental security income, or food stamps.

(5) The child support enforcement agency does not have evidence that the obligor has filed for protection under the federal Bankruptcy Code, 11

.S.C.A. 101, as amended.

(6) The obligee gave written authorization to the agency to display the obligor on a poster.

(7) A legal representative of the agency and a child support enforcement administrator reviewed the case.

(8) The agency is able to submit to the department a description and photograph of the obligor, a statement of the possible locations of the obligor, and any other information required by the department.

(C) When the agency submits the name of an obligor to the division, it also shall submit the photograph and information described in division (B)(8) of this section. It shall not submit to the division the address of the obligee or any other personal information about the obligee.

(D) In accordance with Chapter 119. of the Revised Code, the ~~division~~ director of job and family services shall adopt rules for the operation of the poster program under this section. The rules shall specify the following:

(1) Criteria and procedures for the division to use in reviewing the names of obligors submitted by child support enforcement agencies to be displayed on a poster and selecting the delinquent obligors to be included on a poster;

(2) Procedures for providing the notice specified in division (A)(3) of this section;

(3) Any other procedures necessary for the operation of the poster program.

(E) The division shall use funds appropriated by the general assembly for child support administration to conduct the poster program under this section.

Sec. 5101.324. (A) The ~~department~~ director of ~~human~~ job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing a child support enforcement agency in establishing a paternity compliance unit and in adopting a paternity compliance plan pursuant to section 2301.357 of the Revised Code. The rules shall include, but shall not be limited to, provisions for the following:

(1) The procedure an agency shall follow to adopt and submit a paternity plan to the department of ~~human~~ job and family services;

(2) The information an agency shall include in its adopted paternity compliance plan, including, but not limited to, the manner in which the agency will service Title IV-D cases in accordance with federally mandated timeframes and the manner in which the agency intends to service more cases in order to meet the federal requirements;

(3) A requirement that all plans adopted by an agency include

establishing a paternity compliance unit;

(4) Any other procedures or requirements the ~~department~~ director decides are necessary to adopt a paternity compliance plan and to establish a paternity compliance unit.

(B) The department of ~~human~~ job and family services shall report annually to the speaker of the house of representatives and the president of the senate regarding the paternity compliance plans and paternity compliance units and the progress the county agencies have made toward meeting the federal requirements for quickly and efficiently establishing parent and child relationships due to the paternity compliance plans and units. The report shall include statistics on how long a case takes to establish paternity and the result of each request for a determination of the existence or nonexistence of paternity.

(C) The department of ~~human~~ job and family services shall prepare pamphlets that discuss the benefit of establishing a parent and child relationship, the proper procedure for establishing a parent and child relationship between a father and his child, and a toll-free telephone number that interested persons may call for more information regarding the procedures for establishing a parent and child relationship. The department shall make available the pamphlets and affidavits and statements described in division (D) of this section to the department of health, to each hospital it has a contract with pursuant to section 3727.17 of the Revised Code, and to any individual who requests a pamphlet.

(D)(1) The department of ~~human~~ job and family services shall prepare an acknowledgment of paternity affidavit that includes in boldface type at the top of the affidavit the rights and responsibilities of and the due process safeguards afforded to a person who acknowledges that he is the natural father of a child, including that if an alleged father acknowledges a parent and child relationship he assumes the parental duty of support, that both signators waive any right to bring an action pursuant to sections 3111.01 to 3111.19 of the Revised Code or make a request pursuant to section 3111.22 of the Revised Code, other than for purposes of rescinding the acknowledgment pursuant to division (B) of section 5101.314 of the Revised Code in order to ensure expediency in resolving the question of the existence of a parent and child relationship, that either parent may rescind the acknowledgment pursuant to division (B) of section 5101.314 of the Revised Code, and that the natural father has the right to petition a court pursuant to section 3109.12 of the Revised Code for an order granting him reasonable visitation with respect to the child and to petition the court for custody of the child pursuant to section 2151.23 of the Revised Code. The

affidavit shall include all of the following:

(a) Basic instructions for completing the form, including instructions that both the natural father and the mother or other legal guardian or custodian of the child are required to sign the statement, that they may sign the statement without being in each other's presence, and that the signatures must be notarized.

(b) Blank spaces to enter the full name, social security number, date of birth and address of each parent;

(c) Blank spaces to enter the full name, date of birth, and the residence of the child;

(d) A blank space to enter the name of the hospital or department of health code number assigned to the hospital, for use in situations in which the hospital fills out the form pursuant to section 3727.17 of the Revised Code;

(e) An affirmation by the mother that the information she supplied is true to the best of her knowledge and belief and that she is the natural mother of the child named on the form and assumes the parental duty of support of the child;

(f) An affirmation by the father that the information he supplied is true to the best of his knowledge and belief, that he has received information regarding his legal rights and responsibilities, that he consents to the jurisdiction of the courts of this state, and that he is the natural father of the child named on the form and assumes the parental duty of support of the child;

(g) Signature lines for the mother or other legal guardian or custodian of the child and the natural father;

(h) Signature lines for the notary public;

(i) An instruction to include or attach any other evidence necessary to complete the new birth record that is required by the department by rule.

(2) The ~~department~~ director of ~~human~~ job and family services, in consultation with the department of health, shall adopt rules specifying additional evidence necessary to complete a new birth record that is required to be included with an acknowledgment of paternity affidavit.

(3) The department of ~~human~~ job and family services shall make available the affidavit acknowledging paternity to each county child support enforcement agency, the department of health, and any other person or agency that requests copies.

Sec. 5101.325. (A)(1) Except as provided in division (H) of section 2301.35 of the Revised Code, the division of child support in the department of ~~human~~ job and family services shall be the sole agency of the state

responsible for the collection of all support payments due under support orders and the disbursement of the payments to obligees. The division shall make collections and disbursements in compliance with rules adopted pursuant to division (F) of this section.

(2) In order to comply with its collection and disbursement responsibilities, the division may require the director of each child support enforcement agency to authorize the division to use that director's facsimile signature if the division determines the signature's use is necessary. An agency director shall not be subject to civil or criminal liability for any damage or injury to persons or property that result from the use of the facsimile signature by the state.

(B)(1) The division shall collect the charge imposed on the obligor under the support order pursuant to division (G)(1) of section 2301.35 of the Revised Code. If an obligor fails to pay the required amount with each current support payment due in increments specified under the support order, the division shall maintain a separate arrearage account of that amount for that obligor. The division shall not deduct the unpaid amount from any support payment due to the obligee in increments specified under the support order. If an obligor pays the required amount, the division is not required to apply that payment toward any arrearages under the support payment.

(2) The division, on receipt of program income from a child support enforcement agency under section 3111.99 or 3113.99 of the Revised Code, shall place it in the program income fund established pursuant to division (E) of this section.

(3) All charge amounts collected pursuant to division (B)(1) of this section shall be placed in the program income fund established pursuant to division (E) of this section. On receipt of the charges, the division shall determine the charge amounts collected from obligors under support orders being administered by a child support enforcement agency in each county and shall distribute quarterly to each such agency an amount equal to the charges attributable to the agency. No charge amounts collected pursuant to this division shall be used by the division or an agency for any purpose other than the provision of funds for support enforcement activities.

(C) The division may enter into contracts with public entities or private vendors for the collection of amounts due under support orders or for the performance of other administrative duties of the division. The division may contract with a public or private entity for the collection of arrearages owed under any child support order for which a court or a child support enforcement agency has found the obligor in default pursuant to a final and

enforceable order issued pursuant to division (B) of section 3113.21 of the Revised Code. Each contract shall comply with the rules adopted pursuant to division (F) of this section.

(D) The division shall maintain a separate account for the deposit of support payments it receives as trustee for remittance to the persons entitled to receive the support payments. The division shall disburse each support payment received by it to the appropriate persons pursuant to division (C) of section 3113.211 of the Revised Code. The division shall comply with rules adopted under division (F) of this section to assist in the implementation of this division. The division shall retain and use solely for support enforcement activities, all interest earned on moneys in any account maintained pursuant to this division.

(E) The program income fund is hereby created in the state treasury. The fund shall consist of charge amounts collected under division (B)(1) of this section and program income collected under division (B)(2) of this section, division (E) of section 3111.99 of the Revised Code, and division (E) of section 3113.99 of the Revised Code, and any other program income. The funds shall be used by the division of child support and child support enforcement agencies for purposes of providing funds for child support enforcement activities.

(F) The ~~department~~ director of ~~human~~ job and family services, pursuant to Chapter 119. of the Revised Code shall adopt rules that do all of the following:

(1) Govern collection and disbursement of child support amounts in compliance with sections 454, 454B, and 466 of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, 42 U.S.C. 654, 654B, and 666, and any regulations adopted under the act;

(2) Governing the method of sending processing charge amounts to child support enforcement agencies;

(3) Assist in the implementation of separate accounts for support payments received by the division;

(4) Govern the process of entering into and the provisions of contracts described in division (C) of this section.

Sec. 5101.326. The division of child support in the department of ~~human~~ job and family services may ask the secretary of the treasury for, and may enter into a reciprocal agreement with the secretary to obtain, administrative offsets to collect past due child support amounts in accordance with the "Debt Collection Improvement Act of 1996," 110 Stat. 1321, 31 3716(a) and (h). The ~~division~~ director of job and family services

shall adopt rules in accordance with Chapter 119. of the Revised Code to establish procedures necessary to receive the administrative offsets.

Sec. 5101.327. (A) As used in this section, "support order" has the same meaning as in section 2301.34 of the Revised Code. The requirements of this section are effective on the earlier of the date that all support orders have been converted to the automated data processing system under section 5101.322 of the Revised Code and the division of child support in the department of ~~human~~ job and family services authorizes centralized collection and disbursement of support amounts under the support order pursuant to the rules adopted under division (F)(1) of section 5101.325 of the Revised Code or July 1, 1999.

(B) The director of commerce shall provide the division no later than the first day of March of each year, the name, address, social security number, if the social security number is available, and any other identifying information for any individual included in a request sent by the division pursuant to division (C) of this section who has unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code.

(C) The division shall, no later than the first day of February of each year, send to the director of commerce a request containing the name, address, and social security number of all obligors in default under a support order being administered by a child support enforcement agency of this state and requests that the director provide information to the division as required in division (B) of this section. If the information the director provides identifies or results in identifying unclaimed funds held by the state for an obligor in default, the division shall file a claim under section 169.08 of the Revised Code to recover the unclaimed funds. If the director allows the claim, the director shall pay the claim directly to the division. The director shall not disallow a claim made by the division because the division is not the owner of the unclaimed funds according to the report made pursuant to section 169.03 of the Revised Code.

(D) The ~~department~~ director of ~~human~~ job and family services, in consultation with the department of commerce, may adopt rules in accordance with Chapter 119. of the Revised Code to aid in implementation of this section.

Sec. 5101.33. (A) As used in this section, " benefits" means any of the following:

(1) Cash assistance paid under Chapter 5107. or 5115. of the Revised Code;

(2) Food stamp benefits provided under section 5101.54 of the Revised Code;

(3) Any other program administered by the department of ~~human~~ job and family services under which assistance is provided or service rendered;

(4) Any other program, service, or assistance administered by a person or government entity that the department determines may be delivered through the medium of electronic benefit transfer.

(B) The department of ~~human~~ job and family services may make any payment or delivery of benefits to eligible individuals through the medium of electronic benefit transfer by doing all of the following:

(1) Contracting with an agent to supply debit cards to the department of ~~human~~ job and family services for use by such individuals in accessing their benefits and to credit such cards electronically with the amounts specified by the director of ~~human~~ job and family services pursuant to law;

(2) Informing such individuals about the use of the electronic benefit transfer system and furnishing them with debit cards and information that will enable them to access their benefits through the system;

(3) Arranging with specific financial institutions or vendors, county departments of ~~human~~ job and family services, or persons or government entities for individuals to have their cards credited electronically with the proper amounts at their facilities;

(4) Periodically preparing vouchers for the payment of such benefits by electronic benefit transfer;

(5) Satisfying any applicable requirements of federal and state law.

(C) The department may enter into a written agreement with any person or government entity to provide benefits administered by that person or entity through the medium of electronic benefit transfer. A written agreement may require the person or government entity to pay to the department either or both of the following:

(1) A charge that reimburses the department for all costs the department incurs in having the benefits administered by the person or entity provided through the electronic benefit transfer system;

(2) A fee for having the benefits provided through the electronic benefit transfer system.

(D) The department may designate which counties will participate in the medium of electronic benefit transfer, specify the date a designated county will begin participation, and specify which benefits will be provided through the medium of electronic benefit transfer in a designated county.

(E) The department may adopt rules in accordance with Chapter 119. of the Revised Code for the efficient administration of this section.

Sec. 5101.34. (A) There is hereby created in the department of ~~human~~ job and family services the Ohio commission on fatherhood. The

commission shall consist of the following members:

(1)(a) Four members of the house of representatives appointed by the speaker of the house, not more than two of whom are members of the same political party. Two of the members must be from legislative districts that include a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(b) Two members of the senate appointed by the president of the senate, each from a different political party. One of the members must be from a legislative district that includes a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(2) The governor, or the governor's designee;

(3) One representative of the judicial branch of government appointed by the chief justice of the supreme court;

(4) The directors of health, ~~human~~ job and family services, rehabilitation and correction, and youth services and the superintendent of public instruction, or their designees;

(5) One representative of the Ohio family and children first cabinet council created under section 121.37 of the Revised Code appointed by the chairperson of the council;

(6) Five representatives of the general public appointed by the governor. These members shall have extensive experience in issues related to fatherhood.

(B) The appointing authorities of the Ohio commission on fatherhood shall make initial appointments to the commission within thirty days after the effective date of this section. Of the initial appointments to the commission made pursuant to divisions (A)(3), (5), and (6) of this section, three of the members shall serve a term of one year and four shall serve a term of two years. Members so appointed subsequently shall serve two-year terms. A member appointed pursuant to division (A)(1) of this section shall serve on the commission until the end of the general assembly from which the member was appointed or until the member ceases to serve in the chamber of the general assembly in which the member serves at the time of appointment, whichever occurs first. The governor or the governor's designee shall serve on the commission until the governor ceases to be governor. The directors and superintendent or their designees shall serve on the commission until they cease, or the director or superintendent a designee represents ceases, to be director or superintendent. Each member shall serve on the commission from the date of appointment until the end of the term

for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve on the commission for the remainder of that term. A member shall continue to serve on the commission subsequent to the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. Members shall serve without compensation but shall be reimbursed for necessary expenses.

Sec. 5101.341. (A) The Ohio commission on fatherhood annually shall elect a chairperson from among its members. The department of ~~human~~ job and family services shall provide staff and other support services for the commission.

(B) The commission may accept gifts, grants, donations, contributions, benefits, and other funds from any public agency or private source to carry out any or all of the commission's duties. The funds shall be deposited into the Ohio commission on fatherhood fund, which is hereby created in the state treasury. All gifts, grants, donations, contributions, benefits, and other funds received by the commission pursuant to this division shall be used solely to support the operations of the commission.

Sec. 5101.36. Any application for public assistance gives a right of subrogation to the department of ~~human~~ job and family services for any workers' compensation benefits payable to a person who is subject to a support order, as defined in section 2301.34 of the Revised Code or to an administrative support order, as defined in section 3111.20 of the Revised Code, on behalf of the applicant, to the extent of any public assistance payments made on the applicant's behalf. If the director of ~~human~~ job and family services, in consultation with a child support enforcement agency and the administrator of the bureau of workers' compensation, determines that a person responsible for support payments to a recipient of public assistance is receiving workers' compensation, the director shall notify the administrator of the amount of the benefit to be paid to the department of ~~human~~ job and family services.

For purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency assistance provided under Chapter 5108. of the Revised Code, or disability assistance provided under Chapter 5115. of the Revised Code.

Sec. 5101.44. The department of ~~human~~ job and family services may call an annual conference, of the officials specified in section 5101.45 of the Revised Code and representatives of the various social agencies in the state, to be known as the "Ohio welfare conference." The conference shall:

(A) Facilitate discussion of the problems and methods of practical human improvement;

(B) Increase the efficiency of agencies and institutions devoted to this cause;

(C) Disseminate information;

(D) Consider such other subjects of general social importance as may be determined upon by the conference itself.

The conference shall organize by the election of officers, the appointment of the proper committees, and the adoption of rules. The department may also call other conferences, at any time or place, for the consideration of problems relating to any particular group of institutions and agencies.

Sec. 5101.45. The necessary expenses of such officers and employees of the state, county, and municipal boards, benevolent and correctional institutions, officials responsible for the administration of public funds used for the relief and maintenance of the poor, officials authorized to administer probation laws, and members of the boards of county visitors as are invited by the department of ~~human~~ job and family services to the conferences provided for in section 5101.44 of the Revised Code, shall be paid from any fund available for their respective offices, boards, and institutions, provided they first procure a certificate from the director of ~~human~~ job and family services as evidence that they were invited to and were in attendance at the sessions of such conferences.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of ~~human~~ job and family services, a county department of ~~human~~ job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of mental retardation and developmental disabilities, a county board of mental retardation and developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size

equal to the size of the family of the person whose income is being determined.

(B) The departments of ~~human~~ job and family services, mental health, and mental retardation and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of ~~human~~ job and family services;

(b) Twelve and ninety-three one-hundreths per cent to the department of mental health;

(c) Fourteen and fifty-seven one-hundreths per cent to the department of mental retardation and developmental disabilities.

(2) Each state department shall, subject to the approval of the controlling board, develop formulas for the distribution of their Title XX appropriations to their respective local agencies. The formulas shall take into account the total population of the area that is served by the agency, the percentage of the population in the area that falls below the federal poverty guidelines, and the agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend no more than three per cent of its Title XX appropriation for state administrative costs. Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation for local administrative costs.

(4) The department of ~~human~~ job and family services shall expend no more than two per cent of its Title XX appropriation for the training of the

following:

(a) Employees of county departments of ~~human~~ job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of ~~human~~ job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of ~~human~~ job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the report available for public inspection.

The departments of mental health and mental retardation and developmental disabilities shall prepare and submit to the department of ~~human~~ job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county ~~human~~ family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the ~~state~~ department of ~~human~~ job and family services. The ~~state~~ department shall approve the county profile if the ~~state~~ department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Not less often than every two years, the departments of ~~human~~ job and family services, mental health, and mental retardation and developmental disabilities each shall commission an entity independent of itself to conduct an audit of its Title XX expenditures in accordance with generally accepted auditing principles. Within thirty days following the

completion of its audit, each department shall submit a copy of the audit to the general assembly and to the United States secretary of health and human services.

(G) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a provider of social services if there are adverse findings in an audit that are the responsibility of the provider. The amount of any adverse findings shall not be reimbursed with Title XX funds. The cost of conducting an audit shall be reimbursed under a subsequent or amended Title XX contract with the provider.

(H) If federal funds received by the department of ~~human~~ job and family services for use under Chapters 5107. and 5108. of the Revised Code are transferred by the controlling board for use in providing social services under this section, the distribution and use of the funds are not subject to the provisions of division (C) of this section. The department may do one or both of the following with the funds:

(1) Distribute the funds to the county departments of ~~human~~ job and family services;

(2) Use the funds for services that benefit individuals eligible for services consistent with the principles of Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(I) The department of ~~human~~ job and family services may adopt rules necessary to carry out the purposes of this section. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code, unless they are internal management rules governing fiscal and administrative matters. Internal management rules may be adopted in accordance with section 111.15 of the Revised Code.

Sec. 5101.48. The department of ~~human~~ job and family services shall administer the distribution of food commodities received under the "Agricultural Adjustment Act," 48 Stat. 31, 7 U.S.C.A. 612c, as amended. The ~~department~~ director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code and issue appropriate orders as necessary for administration of the distribution program.

Sec. 5101.49. The department of ~~human~~ job and family services shall administer funds received under the "Refugee Act of 1980," 94 Stat. 102, 8 U.S.C.A. 1521, as amended. In administering the funds, the department may establish a refugee assistance program and a state legalization impact

assistance program. The ~~department~~ director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code and issue appropriate orders as necessary for administration of these funds and programs.

Sec. 5101.50. (A) As used in this section and in sections 5101.51 to 5101.518 of the Revised Code:

(1) "Children's health insurance program" means the program authorized by Title XXI of the "Social Security Act," 111 Stat. 552 (1997), 42 U.S.C.A. 1397aa.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

(B) The director of ~~human~~ job and family services may continue to operate the children's health insurance program initially authorized by an executive order issued under section 107.17 of the Revised Code as long as federal financial participation is available for the program. If operated, the program shall provide health assistance to uninsured individuals under nineteen years of age with family incomes not exceeding one hundred fifty per cent of the federal poverty guidelines. In accordance with 42 U.S.C.A. 1397aa, the director may provide for the health assistance to meet the requirements of 42 U.S.C.A. 1397cc, to be provided under the medicaid program established under Chapter 5111. of the Revised Code, or to be a combination of both.

Sec. 5101.502. The director of ~~human~~ job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of the children's health insurance program part I, including rules that establish all of the following:

(A) The conditions under which health assistance services will be reimbursed;

(B) The method of reimbursement applicable to services reimbursable under the program;

(C) The amount of reimbursement, or the method by which the amount is to be determined, for each reimbursable service.

Sec. 5101.51. In accordance with federal law governing the children's health insurance program, the director of ~~human~~ job and family services may submit a state child health plan to the United States secretary of health and human services to provide, except as provided in section 5101.516 of the Revised Code, health assistance to uninsured individuals under nineteen years of age with family incomes above one hundred fifty per cent of the federal poverty guidelines but not exceeding two hundred per cent of the federal poverty guidelines. If the director submits the plan, the director shall

include both of the following in the plan:

(A) The health assistance will not begin before January 1, 2000.

(B) The health assistance will be available only while federal financial participation is available for it.

Sec. 5101.512. If the director of ~~human~~ job and family services submits a state child health plan to the United States secretary of health and human services under section 5101.51 of the Revised Code and the secretary approves the plan, the director shall implement the children's health insurance program part II in accordance with the plan. The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of the program, including rules that establish all of the following:

(A) The conditions under which health assistance services will be reimbursed;

(B) The method of reimbursement applicable to services reimbursable under the program;

(C) The amount of reimbursement, or the method by which the amount is to be determined, for each reimbursable service.

Sec. 5101.513. The director of ~~human~~ job and family services may contract with a government entity or person to perform the director's administrative duties regarding the children's health insurance program part II, other than the duty to submit a state child health plan to the United States secretary of health and human services under section 5101.51 of the Revised Code and the duty to adopt rules under section 5101.512 of the Revised Code.

Sec. 5101.515. The director of ~~human~~ job and family services may determine applicants' eligibility for the children's health insurance program part II by any of the following means:

(A) Using employees of the department of ~~human~~ job and family services;

(B) Assigning the duty to county departments of ~~human~~ job and family services;

(C) Contracting with a government entity or person.

Sec. 5101.516. If the director of ~~human~~ job and family services determines that federal financial participation for the children's health insurance program part II is insufficient to provide health assistance to all the individuals the director anticipates are eligible for the program, the director may refuse to accept new applications for the program or may make the program's eligibility requirements more restrictive.

Sec. 5101.517. To the extent permitted by 42 U.S.C.A. 1397cc(e), the

director of ~~human~~ job and family services may require an individual receiving health assistance under the children's health insurance program part II to pay a premium, deductible, coinsurance payment, or other cost-sharing expense.

Sec. 5101.518. The director of ~~human~~ job and family services shall establish an appeal process for individuals aggrieved by a decision made regarding eligibility for the children's health insurance program part II. The process may be identical to, similar to, or different from the appeal process established by section 5101.35 of the Revised Code.

Sec. 5101.52. Upon the death of a recipient of aid, under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or of any person who would be eligible for such aid except that the person is a resident of a county home, any person who received assistance under former Chapter 5105., 5106., or 5151. of the Revised Code, for the month of December, 1973, or a recipient of aid under Chapter 5107. or 5115. of the Revised Code who resided in an unincorporated area, the person entitled to receive payment for funeral, cremation, cemetery, and burial expenses for the deceased recipient may apply to a county department of ~~human~~ job and family services for state funds to defray those expenses. An itemized sworn statement of the total funeral, cremation, cemetery, and burial charges submitted by a funeral director must accompany the application.

The county department that receives the application shall make the determination of whether to approve payment of the funeral, cremation, cemetery, and burial expenses. The county department shall not approve the payment if the recipient, at the time of death, had funds available for the expenses or if the total cost of the expenses exceeds the amount designated in this section. Any person or government entity, other than the state department of ~~human~~ job and family services, may provide contributions, allowances, and grants up to a total amount not to exceed the maximum burial assistance payment under this section and grave space towards items of cremation, cemetery, outside receptacle, and incidental funeral and burial expenses, other than a standard sized casket and professional services of the funeral director. To the extent furnished, such contribution, allowance, grant, or grave space shall not be considered a part of the total funeral, cremation, cemetery, and burial expenses of the deceased recipient. The county department shall approve payment of expenses only to the extent of the difference between the resources of the deceased person, in real and personal property and insurance, and the permissible payment for expenses as provided in this section.

A sum not to exceed the following amount may be ordered paid to the proper person to defray the total funeral, cremation, cemetery, and burial expenses of the deceased recipient:

(A) If the deceased recipient was a recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or a person who would have been eligible for such aid except that the person resided in a county home, a person who received assistance under former Chapter 5105., 5106., or 5151. of the Revised Code, for the month of December, 1973, or a recipient of aid under Chapter 5107. or 5115. of the Revised Code who resided in an unincorporated area and was eleven years of age or older, seven hundred fifty dollars.

(B) If the deceased recipient was a recipient of aid under Chapter 5107. or 5115. of the Revised Code who resided in an unincorporated area and had not reached the age of eleven years, five hundred dollars.

Sec. 5101.53. The department of ~~human~~ job and family services may enter into an agreement with the secretary of health and human services under Public Law 93-66 for the purpose of supplementing the payments of recipients of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to the extent necessary to provide individuals who were recipients of aid in December~~,~~ 1973 under former Chapters 5105., 5106., and 5151. of the Revised Code with income from all sources equal to the income of such individuals in December~~,~~ 1973, including correctly paid assistance. Upon authorization by the department, the director of budget and management shall provide for payment to the secretary of amounts equal to the expenditures of the secretary under the agreement. Such payments shall be charged to the administration and adjustment fund, which is hereby created in the state treasury.

The department of ~~human~~ job and family services may make aid payments to aged, blind, or disabled individuals who are determined as the result of a fair hearing to be eligible for such payments under former Chapter 5105., 5106., or 5151. of the Revised Code.

Sec. 5101.54. (A) The ~~department~~ director of ~~human~~ job and family services shall administer the food stamp program in accordance with the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as amended. The department may:

(1) Prepare and submit to the secretary of the United States department of agriculture a plan for the administration of the food stamp program;

(2) Prescribe forms for applications, certificates, reports, records, and accounts of county departments of ~~human~~ job and family services, and other matters;

(3) Require such reports and information from each county department of ~~human~~ job and family services as may be necessary and advisable;

(4) Administer and expend any sums appropriated by the general assembly for the purposes of this section and all sums paid to the state by the United States as authorized by the Food Stamp Act of 1977;

(5) Conduct such investigations as are necessary;

(6) Enter into interagency agreements and cooperate with investigations conducted by the department of public safety, including providing information for investigative purposes, exchanging property and records, passing through federal financial participation, modifying any agreements with the United States department of agriculture, providing for the supply, security, and accounting of food stamp coupons for investigative purposes, and meeting any other requirements necessary for the detection and deterrence of illegal activities in the state food stamp program;

(7) Adopt rules in accordance with Chapter 119. of the Revised Code governing employment and training requirements of recipients of food stamp benefits, including rules specifying which recipients are subject to the requirements and establishing sanctions for failure to satisfy the requirements. The rules shall be consistent with 7 U.S.C.A. 2015 and, to the extent practicable, may provide for food stamp benefit recipients to participate in work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code that are comparable to programs authorized by 7 U.S.C.A. 2015(d)(4). The rules may reference rules adopted under section 5107.05 of the Revised Code governing work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code.

(8) Adopt rules in accordance with section 111.15 of the Revised Code that are consistent with the Food Stamp Act of 1977, as amended, and regulations adopted thereunder governing the following:

(a) Eligibility requirements for the food stamp program;

(b) Sanctions for failure to comply with eligibility requirements;

(c) Allotment of food stamp coupons;

(d) To the extent permitted under federal statutes and regulations, a system under which some or all recipients of food stamp benefits subject to employment and training requirements established by rules adopted under division (A)(7) of this section receive food stamp benefits after satisfying the requirements;

(e) Administration of the program by county departments of ~~human~~ job and family services;

(f) Other requirements necessary for the efficient administration of the program.

(9) Submit a plan to the United States secretary of agriculture for the department of job and family services to operate a simplified food stamp program pursuant to 7 U.S.C.A. 2035 under which requirements governing the Ohio works first program established under Chapter 5107. of the Revised Code also govern the food stamp program in the case of households receiving food stamp benefits and participating in Ohio works first.

(B) Except while in the custody of the United States postal service, food stamps and any document necessary to obtain food stamps are the property of the department of ~~human~~ job and family services from the time they are received in accordance with federal regulations by the department from the federal agency responsible for such delivery until they are received by a household entitled to receive them or by the authorized representative of the household.

(C) A household that is entitled to receive food stamps under the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as amended, and that is determined to be in immediate need of food assistance, shall receive certification of eligibility for program benefits, pending verification, within twenty-four hours, or, if mitigating circumstances occur, within seventy-two hours, after application, if:

(1) The results of the application interview indicate that the household will be eligible upon full verification;

(2) Information sufficient to confirm the statements in the application has been obtained from at least one additional source, not a member of the applicant's household. Such information shall be recorded in the case file, and shall include:

(a) The name of the person who provided the name of the information source;

(b) The name and address of the information source;

(c) A summary of the information obtained.

The period of temporary eligibility shall not exceed one month from the date of certification of temporary eligibility. If eligibility is established by full verification, benefits shall continue without interruption as long as eligibility continues.

At the time of application, the county department of ~~human~~ job and family services shall provide to a household described in this division a list of community assistance programs that provide emergency food.

(D) All applications shall be approved or denied through full verification within thirty days from receipt of the application by the county

department of ~~human~~ job and family services.

(E) Nothing in this section shall be construed to prohibit the certification of households that qualify under federal regulations to receive food stamps without charge under the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as amended.

(F) Any person who applies for food stamps under this section shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. 5101.541. (A) The ~~department~~ director of ~~human~~ job and family services shall establish, by rule, effective July 1, 1981, a system of mail issuance of food stamp allotments utilizing direct coupon mailing. The county department of ~~human~~ job and family services shall administer the mailing of such coupons under the supervision of the department of ~~human~~ job and family services. The system shall provide for redetermination of eligibility at the same intervals as are in effect on March 23, 1981 or at such other intervals as may be required by federal law or regulation.

(B) The department of ~~human~~ job and family services shall provide an alternative system to the system of mail issuance established in division (A) of this section in counties where any of the following apply:

(1) The department can document, after notice and hearing, significant diminution of demand for mail issuance of food stamp coupons;

(2) The loss rate for coupons issued through the mail exceeds any tolerable loss rate which may be established by rule of the United States department of agriculture;

(3) The department provides for food stamp benefits to be distributed through the medium of electronic benefit transfer in the county pursuant to section 5101.33 of the Revised Code.

(C) The county department of ~~human~~ job and family services shall issue to each household or the household's authorized representative for coupon issuance, at the time eligibility for food stamps is established, an identification card. The card shall be issued in the name of the household member to whom food stamp coupons are issued or the authorized representative.

Sec. 5101.542. (A) The board of county commissioners of any county may, by resolution forwarded to the department of ~~human~~ job and family services no later than the thirty-first day of March of any year, decline to participate in or withdraw the county from the system of mail issuance of food stamp coupons established under section 5101.541 of the Revised Code and reinstitute the previous system of issuing food stamp coupons in that county. Such resolution shall be effective on the first day of July of that

year.

(B) The board of county commissioners of any county that has withdrawn from the system of mail issuance of food stamp coupons under division (A) of this section, may, by resolution forwarded to the department of ~~human~~ job and family services, reinstitute the mail issuance system. Such resolution shall be effective in the fourth month after the month in which it is adopted.

This division does not apply to counties that have been withdrawn from mail issuance pursuant to division (B) of section 5101.541 of the Revised Code.

(C) The board of county commissioners of any county that has withdrawn from the mail issuance system may specify geographic areas of the county within which food stamp coupons shall be issued at a central location to all households in which the member or representative who is authorized to receive the coupons is not physically incapable of traveling to such central location.

(D) The board of county commissioners of any county that has withdrawn from the mail issuance system may, by resolution, establish conditions under which the county department of ~~human~~ job and family services shall issue food stamps by mail to classes of food stamp recipients that the board determines to be in need of mail delivery of food stamps. The class of mail used under this division shall be the same as specified in rules adopted pursuant to section 5101.541 of the Revised Code.

Sec. 5101.543. Any person may withdraw from the system of mail issuance of food stamp coupons established under section 5101.541 of the Revised Code and revert to the method by which ~~he~~ the person previously obtained food stamp coupons by notifying the county department of ~~human~~ jobs and family services in person or in writing. Reinstitution of the previous method of receiving food stamp coupons shall be effective in the second month after the receipt of notification from any person requesting reversion to the previous method of issuing coupons.

Nothing in this section or section 5101.541 or 5101.542 of the Revised Code shall be construed to limit the department of ~~human~~ job and family services' responsibility to provide emergency food pursuant to any federal law or regulation.

Sec. 5101.544. If the benefits of a household are reduced under a federal, state, or local means-tested public assistance program for failure of a member of the household to perform an action required under the program, the household may not receive, for the duration of the reduction, an increased allotment of food stamp benefits as the result of a decrease in the

ncome of the household to the extent that the decrease is the result of the reduction.

The department of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall be consistent with 7 U.S.C.A. 2017(d) and federal regulations.

Sec. 5101.572. Upon the request of the department of ~~human~~ job and family services, any third party as defined in section 5101.571 of the Revised Code shall cooperate with the department in identifying individuals for the purpose of establishing third party liability pursuant to Title XIX of the Social Security Act, as amended. The department of ~~human~~ job and family services shall limit its use of information gained from third parties to purposes directly connected with the administration of the medicaid program. No third party shall disclose to other parties or make use of any information regarding recipients of aid under Chapter 5107. or 5111. of the Revised Code that it obtains from the department of ~~human~~ job and family services, except in the manner provided for by the ~~department~~ director of ~~human~~ job and family services in ~~its~~ administrative rules. Any information provided by a third party to the department of ~~human~~ job and family services shall not be considered a violation of any right of confidentiality or contract that the third party may have with covered persons including, but not limited to, contractees, beneficiaries, heirs, assignees, and subscribers. The third party is immune from any liability that it may otherwise incur through its release of information to the department of ~~human~~ job and family services.

Sec. 5101.58. As used in this section and section 5101.59 of the Revised Code, "public assistance" means aid provided under Chapter 5111. or 5115. of the Revised Code and participation in the Ohio works first program established under Chapter 5107. of the Revised Code.

The acceptance of public assistance gives a right of recovery to the department of ~~human~~ job and family services and a county department of ~~human~~ job and family services against the liability of a third party for the cost of medical services and care arising out of injury, disease, or disability of the public assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, the entire amount of any settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of ~~human~~ job and family services or county department of ~~human~~ job and family services. Except in the case of a recipient or participant who receives medical services or care through a managed care

organization, the department's or county department's claim shall not exceed the amount of medical expenses paid by the departments on behalf of the recipient or participant. In the case of a recipient or participant who receives medical services or care through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical services or care rendered to the recipient or participant, even if that amount is more than the amount the departments pay to the managed care organization for the recipient's or participant's medical services or care. Any settlement, compromise, judgment, or award that excludes the cost of medical services or care shall not preclude the departments from enforcing their rights under this section.

Prior to initiating any recovery action, the recipient or participant, or the recipient's or participant's representative, shall disclose the identity of any third party against whom the recipient or participant has or may have a right of recovery. Disclosure shall be made to the department of ~~human~~ job and family services when medical expenses have been paid pursuant to Chapter 5111. or 5115. of the Revised Code. Disclosure shall be made to both the department of ~~human~~ job and family services and the appropriate county department of ~~human~~ job and family services when medical expenses have been paid pursuant to Chapter 5115. of the Revised Code. No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient or participant where the departments have a right of recovery shall be made final without first giving the appropriate departments notice and a reasonable opportunity to perfect their rights of recovery. If the departments are not given appropriate notice, the recipient or participant is liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments. The departments shall be permitted to enforce their recovery rights against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of ~~human~~ job and family services or county department of ~~human~~ job and family services as soon as the third party is notified in writing of the valid claims for recovery under this section.

The right of recovery does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the

recipient's or participant's own resources. Attorney fees and costs or other expenses in securing any recovery shall not be assessed against any claims of the departments.

To enforce their recovery rights, the departments may do any of the following:

(A) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(B) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(C) Initiate legal proceedings in conjunction with the injured, diseased, or disabled recipient or participant or the recipient's or participant's legal representative.

Recovery rights created by this section may be enforced separately or jointly by the department of ~~human~~ job and family services and the county department of ~~human~~ job and family services.

The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.13 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

The ~~department~~ director of ~~human~~ job and family services may adopt rules in accordance with Chapter 119. of the Revised Code the department considers necessary to implement this section.

Sec. 5101.59. (A) The application for or acceptance of public assistance constitutes an automatic assignment of certain rights to the department of ~~human~~ job and family services. This assignment includes the rights of the applicant, recipient, or participant and also the rights of any other member of the assistance group for whom the applicant, recipient, or participant can legally make an assignment.

Pursuant to this section, the applicant, recipient, or participant assigns to the department any rights to medical support available to the applicant, recipient, or participant or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant, recipient, participant, or other members of the assistance group.

Medicare benefits shall not be assigned pursuant to this section. Benefits

assigned to the department by operation of this section are directly reimbursable to the department by liable third parties.

(B) Refusal by the applicant, recipient, or participant to cooperate in obtaining medical support and payments for self or any other member of the assistance group renders the applicant, recipient, or participant ineligible for public assistance, unless cooperation is waived by the department. Eligibility shall continue for any individual who cannot legally assign the individual's own rights and who would have been eligible for public assistance but for the refusal to assign the individual's rights or to cooperate as required by this section by another person legally able to assign the individual's rights.

If the applicant, recipient, or participant or any member of the assistance group becomes ineligible for public assistance, the department shall restore to the applicant, recipient, participant, or member of the assistance group any future rights to benefits assigned under this section.

The rights of assignment given to the department under this section do not include rights to support assigned under section 5107.20 or 5115.13 of the Revised Code.

(C) The ~~department~~ director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules that specify what constitutes cooperating with efforts to obtain medical support and payments and when the cooperation requirement may be waived.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by ~~himself~~ self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents ~~him~~ the person from providing for ~~his~~ the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. Except as otherwise provided in this division, ~~it~~ "independent living arrangement" includes a community alternative home licensed pursuant to section 3724.03 of the Revised Code but does not include other institutions or facilities licensed by the state, or facilities in which a person resides as a result of voluntary, civil, or criminal commitment. "Independent living arrangement" does include adult care

facilities licensed pursuant to Chapter 3722. of the Revised Code.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to ~~himself~~ self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or ~~his~~ an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that ~~he~~ the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning ~~his person~~ the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for ~~himself~~ self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of ~~human~~ job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the

prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered

professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in ~~his~~ the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while ~~his~~ the patient there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, any employee of a community alternative home as defined in section 3724.01 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of ~~human~~ job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be

made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if ~~he~~ the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.611. If a county department of ~~human~~ job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.61 or of an investigation conducted under sections 5101.62 to 5101.64 or on the initiative of the department is mentally retarded or developmentally disabled as defined in section 5126.01 of the Revised Code, the department shall refer the case to the county board of mental retardation and developmental disabilities of that county for review

pursuant to section 5126.31 of the Revised Code.

If a county board of mental retardation and developmental disabilities refers a case to the county department of ~~human~~ job and family services in accordance with section 5126.31, the department shall proceed with the case in accordance with sections 5101.60 to 5101.71 of the Revised Code.

Sec. 5101.62. The county department of ~~human~~ job and family services shall be responsible for the investigation of all reports provided for in section 5101.61 and all cases referred to it under section 5126.31 of the Revised Code and for evaluating the need for and, to the extent of available funds, providing or arranging for the provision of protective services. The department may designate another agency to perform the department's duties under this section.

Investigation of the report provided for in section 5101.61 or a case referred to the department under section 5126.31 of the Revised Code shall be initiated within twenty-four hours after the department receives the report or case if any emergency exists; otherwise investigation shall be initiated within three working days.

Investigation of the need for protective services shall include a face-to-face visit with the adult who is the subject of the report, preferably in ~~his~~ the adult's residence, and consultation with the person who made the report, if feasible, and agencies or persons who have information about the adult's alleged abuse, neglect, or exploitation.

The department shall give written notice of the intent of the investigation and an explanation of the notice in language reasonably understandable to the adult who is the subject of the investigation, at the time of the initial interview with that person.

Upon completion of the investigation, the department shall determine from its findings whether or not the adult who is the subject of the report is in need of protective services. No adult shall be determined to be abused, neglected, or in need of protective services for the sole reason that, in lieu of medical treatment, ~~he~~ the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which ~~he~~ the adult is a member or adherent. The department shall write a report which confirms or denies the need for protective services and states why it reached this conclusion.

Sec. 5101.63. If, during the course of an investigation conducted under section 5101.62 of the Revised Code, any person, including the adult who is the subject of the investigation, denies or obstructs access to the residence of the adult, the county department of ~~human~~ job and family services may file a petition in court for a temporary restraining order to prevent the

ence or obstruction. The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the adult is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. Such a finding is prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. After obtaining an order restraining the obstruction of or interference with the access of the protective services representative, the representative may be accompanied to the residence by a peace officer.

Sec. 5101.65. If the county department of ~~human~~ job and family services determines that an adult is in need of protective services and is an incapacitated person, the department may petition the court for an order authorizing the provision of protective services. The petition shall state the specific facts alleging the abuse, neglect, or exploitation and shall include a proposed protective service plan. Any plan for protective services shall be specified in the petition.

Sec. 5101.67. (A) The court shall hold a hearing on the petition as provided in section 5101.65 of the Revised Code within fourteen days after its filing. The adult who is the subject of the petition shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The adult shall be represented by counsel unless the right to counsel is knowingly waived. If the adult is indigent, the court shall appoint counsel to represent ~~him~~ the adult. If the court determines that the adult lacks the capacity to waive the right to counsel, the court shall appoint counsel to represent ~~his~~ the adult's interests.

(B) If the court finds, on the basis of clear and convincing evidence, that the adult has been abused, neglected, or exploited, is in need of protective services, and is incapacitated, and no person authorized by law or by court order is available to give consent, it shall issue an order requiring the provision of protective services only if they are available locally.

(C) If the court orders placement under this section it shall give consideration to the choice of residence of the adult. The court may order placement in settings which have been approved by ~~he~~ THE department of ~~human~~ job and family services as meeting at least minimum community standards~~.~~ for safety, security, and the requirements of daily living. The court shall not order an institutional placement unless it has made a specific finding entered in the record that no less restrictive alternative can be found to meet the needs of the individual. No individual may be committed to a hospital or public hospital as defined in section 5122.01 of the Revised Code pursuant to this section.

(D) The placement of an adult pursuant to court order as provided in this section shall not be changed unless the court authorized the transfer of placement after finding compelling reasons to justify the transfer. Unless the court finds that an emergency exists, the court shall notify the adult of a transfer at least thirty days prior to the actual transfer.

(E) A court order provided for in this section shall remain in effect for no longer than six months. Thereafter, the county department of ~~human~~ job and family services shall review the adult's need for continued services and, if the department determines that there is a continued need, it shall apply for a renewal of the order for additional periods of no longer than one year each. The adult who is the subject of the court-ordered services may petition for modification of the order at any time.

Sec. 5101.70. (A) If it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of ~~human~~ job and family services shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means, the department shall initiate procedures for reimbursement pursuant to rules promulgated by the department. If the evaluation establishes that the adult does not have such financial means, the services shall be provided in accordance with the policies and procedures established by the department of ~~human~~ job and family services for the provision of welfare assistance. An adult shall not be required to pay for court-ordered protective services unless the court determines upon a showing by the department that the adult is financially able to pay and the court orders the adult to pay.

(B) Whenever the department has petitioned the court to authorize the provision of protective services and the adult who is the subject of the petition is indigent, the court shall appoint legal counsel.

Sec. 5101.71. (A) The county departments of ~~human~~ job and family services shall implement sections 5101.60 to 5101.71 of the Revised Code. The department of ~~human~~ job and family services may provide a program of ongoing, comprehensive, formal training to county departments and other agencies authorized to implement sections 5101.60 to 5101.71 of the Revised Code. Training shall not be limited to the procedures for implementing section 5101.62 of the Revised Code.

(B) The ~~department~~ director of ~~human~~ job and family services may adopt rules in accordance with section 111.15 of the Revised Code governing the county departments' implementation of sections 5101.60 to 5101.71 of the Revised Code. The rules adopted pursuant to this division may include a requirement that the county departments provide on forms

prescribed by the rules a plan of proposed expenditures, and a report of actual expenditures, of funds necessary to implement sections 5101.60 to 5101.71 of the Revised Code.

Sec. 5101.72. The department of ~~human~~ job and family services, to the extent of available funds, may reimburse county departments of ~~human~~ job and family services for all or part of the costs they incur in implementing sections 5101.60 to 5101.71 of the Revised Code. The director of ~~human~~ job and family services shall adopt, and may amend or rescind, rules under section 111.15 of the Revised Code that provide for reimbursement of county departments of ~~human~~ job and family services under this section.

Sec. 5101.75. (A) As used in sections 5101.75, 5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code:

(1) "Alternative source of long-term care" includes a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, home and community-based services, and a nursing home licensed under Chapter 3721. of the Revised Code that is not a nursing facility.

(2) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(4) "Representative" means a person acting on behalf of an applicant for admission to a nursing facility. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant.

(5) "Third-party payment source" means a third-party payer as defined in section 3901.38 of the Revised Code or medicaid.

(B) Effective July 1, 1994, the department of ~~human~~ job and family services may assess a person applying or intending to apply for admission to a nursing facility who is not an applicant for or recipient of medicaid to determine whether the person is in need of nursing facility services and whether an alternative source of long-term care is more appropriate for the person in meeting ~~his~~ the person's physical, mental, and psychosocial needs than admission to the facility to which ~~he~~ the person has applied.

Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or ~~his~~ the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the

person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons certified by the department under section 5101.752 of the Revised Code. The department or designated agency shall make a recommendation on the basis of the assessment and, not later than the time the assessment is required to be performed under division (D) of this section, give the person assessed written notice of the recommendation, which shall explain the basis for the recommendation. If the department or designated agency determines pursuant to an assessment that an alternative source of long-term care is more appropriate for the person than admission to the facility to which ~~he~~ the person has applied, the department or designated agency shall include in the notice possible sources of financial assistance for the alternative source of long-term care. If the department or designated agency has been informed that the person has a representative, it shall give the notice to the representative.

(C) A person is not required to be assessed under division (B) of this section if any of the following apply:

(1) The circumstances specified by rules adopted under division (I) of this section exist.

(2) ~~He~~ The person is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code.

(3) ~~He~~ The person has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult-care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement;

(4) ~~He~~ The person is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) ~~He~~ The person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to ~~his~~ the person's primary caregiver and the nursing facility notifies the department of ~~his~~ the person's admittance not later than twenty-four hours after admitting ~~him~~ the person;

(6) ~~He~~ The person is to be transferred from another nursing facility, unless the nursing facility from which or to which ~~he~~ the person is to be

nsferred determines that ~~his~~ the person's medical condition has changed substantially since ~~his~~ the person's admission to the nursing facility from which ~~he~~ the person is to be transferred or a review is required by a third-party payment source;

(7) ~~He~~ The person is to be readmitted to a nursing facility following a period of hospitalization, unless the hospital or nursing facility determines that ~~his~~ the person's medical condition has changed substantially since ~~his~~ the person's admission to the hospital, or a review is required by a third-party payment source;

(8) The department or designated agency fails to complete an assessment within the time required by division (D) or (E) of this section or determines after a partial assessment that the person should be exempt from the assessment.

(D) The department or designated agency shall perform a complete assessment, or, if circumstances provided by rules adopted under division (I) of this section exist, a partial assessment, as follows:

(1) In the case of a hospitalized person applying or intending to apply to a nursing facility, not later than two working days after the person or ~~his~~ the person's representative is notified that a bed is available in a nursing facility;

(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later than one working day after the person or ~~his~~ the person's representative is notified that a bed is available in a nursing facility;

(3) In all other cases, not later than five calendar days after the person or ~~his~~ the person's representative who submits the application is notified that a bed is available in a nursing facility.

(E) If the department or designated agency conducts a partial assessment under division (D) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the assessment entity determines the person should be exempt from the assessment.

(F) A person assessed under this section or ~~his~~ the person's representative may file a complaint with the department about the assessment process. The department shall work to resolve the complaint in accordance with rules adopted under division (I) of this section.

(G) A person is not required to seek an alternative source of long-term care and may be admitted to or continue to reside in a nursing facility even though an alternative source of long-term care is available or ~~he~~ the person is determined pursuant to an assessment under this section not to need nursing facility services.

(H) No nursing facility with a provider agreement with the department under section 5111.22 of the Revised Code shall admit or retain any person, other than a person exempt from the assessment requirement as provided by division (C) of this section, as a resident unless the nursing facility has received evidence that a complete or partial assessment has been completed.

(I) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this section. The rules shall include all of the following:

(1) The information a person being assessed or ~~his~~ the person's representative must provide to enable the department or designated agency to do the assessment;

(2) Criteria to be used to determine whether a person is in need of nursing facility services;

(3) Criteria to be used to determine whether an alternative source of long-term care is appropriate for the person being assessed;

(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;

(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;

(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;

(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;

(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;

(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.

(J) The director of ~~human~~ job and family services may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code in either of the following circumstances:

(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;

(2) The nursing facility admits, without evidence that a complete or partial assessment has been conducted, a person other than a person exempt from the assessment requirement as provided by division (C) of this section.

The director shall deposit all fines collected under this division into the residents protection fund established by section 5111.62 of the Revised Code.

Sec. 5101.751. (A) The department of ~~human~~ job and family services

may designate another agency to perform assessments under section 5101.75 of the Revised Code. If another agency is designated to perform assessments, the department shall supervise the agency. The department shall rescind an agency's authority to perform assessments if the department determines the agency is not performing assessments adequately.

(B) If the department designates another agency to perform assessments, the department shall evaluate the performance of the agency not less than once each year. The department shall submit to the agency a written report of the department's evaluation. If the department concludes in an evaluation that the agency's performance needs to be improved, the department may provide the agency with technical assistance. If the department concludes that the agency is not performing the assessments in accordance with section 5101.75 of the Revised Code and the rules adopted under that section, the department shall rescind its designation.

(C) If another agency is designated to perform assessments, the agency shall submit to the department of ~~human~~ job and family services not less than once each month the following information:

(1) The number, race, gender, and age of each person assessed under section 5101.75 of the Revised Code to need nursing facility services; what type of facility, including an independent living arrangement, hospital, adult care facility, residential care facility, nursing home, a different nursing facility, or other type of facility, the person resided in when ~~he~~ the person applied for admission to a nursing facility; and the length of time it took the agency to authorize the admission;

(2) The number, race, gender, and age of each person assessed under section 5101.754 of the Revised Code to need the level of care provided by a nursing facility; what type of facility, including an independent living arrangement, hospital, adult care facility, residential care facility, nursing home, a different nursing facility, or other type of facility, the person resided in when ~~he~~ the person applied for admission to a nursing facility; and the length of time it took the agency to authorize admission;

(3) The number, race, gender, and age of each person for whom it is determined pursuant to an assessment that an alternative source of long-term care is appropriate; the type of long-term care the person subsequently received; and the amount and frequency of long-term care the person received or is receiving.

Sec. 5101.752. The department of ~~human~~ job and family services shall certify registered nurses licensed under Chapter 4723. of the Revised Code and social workers and independent social workers licensed under Chapter 4757. of the Revised Code who meet certification requirements established

by rule to perform assessments under section 5101.75 or 5101.754 of the Revised Code. The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the certification process and requirements. The rules shall specify the education, experience, or training in geriatric long-term care a person must have to qualify for certification.

Sec. 5101.754. On receipt of a waiver from the United States department of health and human services of any federal requirements that prohibit or restrict the implementation of this section or determining that a federal waiver is not necessary, the department of ~~human~~ job and family services may designate another agency to conduct the assessments required by section 5111.204 of the Revised Code. The assessments shall be conducted in accordance with rules adopted ~~by the department of human services~~ under section 5111.204 of the Revised Code. The agency shall report assessments in accordance with rules the ~~department~~ director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code.

Sec. 5101.80. (A) The department of ~~human~~ job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan, and amendments to the plan that the department determines necessary, for the Ohio works first program established under Chapter 5107. of the Revised Code and the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(2) Prescribe forms for applications, certificates, reports, records, and accounts of county departments of ~~human~~ job and family services, and other matters related to the Ohio works first program and the prevention, retention, and contingency program;

(3) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding the Ohio works first program and the prevention, retention, and contingency program;

(4) Require reports and information from each county department of ~~human~~ job and family services as may be necessary or advisable regarding the Ohio works first program and the prevention, retention, and contingency program;

(5) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, the Ohio works first program or the prevention, retention, and contingency

program aggrieved by a decision regarding either program;

(6) Administer and expend, pursuant to Chapters 5107. and 5108. of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(7) Conduct investigations as are necessary regarding the Ohio works first program and the prevention, retention, and contingency program;

(8) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(9) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received assistance or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department an initial report of the evaluation not later than two years after ~~the effective date of this amendment~~ October 1, 1997, and provide subsequent reports at times the department specifies.

(10) Not later than March 1, 1998, and the first day of each September and March thereafter until September 1, 2001, prepare a county by county report concerning individuals who cease to participate in Ohio works first that contains the reasons the individuals ceased to participate, including employment, marital status, and relocation;

(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:

(a) A county by county breakdown of individuals who cease to participate in Ohio works first and the reasons the individuals ceased to participate, including exhausting the time limits for participation set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

(B) The department shall provide copies of the reports it receives under division (A)(9) of this section and prepares under divisions (A)(10) and (11) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request.

(C) An authorized representative of the department or a county department of ~~human~~ job and family services shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section.

Sec. 5101.81. (A) Prior to submitting the Title IV-A state plan required by section 5101.80 of the Revised Code to the United States secretary of health and human services, the department of ~~human~~ job and family services shall submit the plan to all of the following members of the general assembly:

(1) The president and minority leader of the senate;

(2) The speaker and minority leader of the house of representatives;

(3) The chairpersons and ranking minority members of the house and senate committees with primary responsibility for appropriations.

(B) The president of the senate and the speaker of the house of representatives may establish a joint study committee to examine whether the Title IV-A state plan complies with federal statutes and regulations and state law. If the committee is established, the president of the senate shall appoint three members of the senate serving on the senate committee with primary responsibility for appropriations and the speaker of the house of representatives shall appoint three members of the house of representatives serving on the house of representatives committee with primary responsibility for appropriations. Not more than two members of the senate and not more than two members of the house of representatives appointed to the committee shall be members of the same political party. The committee may issue a report to the department of ~~human~~ job and family services regarding the committee's findings. The department shall make corrections to the Title IV-A state plan that are necessary to ensure it is in compliance with federal statutes and regulations and state law.

Sec. 5101.83. (A) As used in this section:

(1) "Assistance group" has the same meaning as in sections 5107.02 and 5108.01 of the Revised Code.

(2) "Fraudulent assistance" means assistance and services, including cash assistance, provided under the Ohio works first program established under Chapter 5107., or the prevention, retention, and contingency program

established under Chapter 5108. of the Revised Code, to or on behalf of an assistance group that is provided as a result of fraud by a member of the assistance group, including an intentional violation of the program's requirements. "Fraudulent assistance" does not include assistance or services to or on behalf of an assistance group that is provided as a result of an error that is the fault of a county department of ~~human~~ job and family services or the state department of ~~human~~ job and family services.

(B) If a county director of ~~human~~ job and family services determines that an assistance group has received fraudulent assistance, the assistance group is ineligible to participate in the Ohio works first program or the prevention, retention, and contingency program until a member of the assistance group repays the cost of the fraudulent assistance. If a member repays the cost of the fraudulent assistance and the assistance group otherwise meets the eligibility requirements for the Ohio works first program or the prevention, retention, and contingency program, the assistance group shall not be denied the opportunity to participate in the program.

This section does not limit the ability of a county department of ~~human~~ job and family services to recover erroneous payments under section 5107.76 of the Revised Code.

The state department of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5101.851. There is hereby created the kinship care services planning council in the department of ~~human~~ job and family services. The following shall serve on the council:

(A) The superintendent of public instruction and the directors of ~~human~~ job and family services, youth services, health, mental health, alcohol and drug addiction services, mental retardation and developmental disabilities, and aging or the superintendent's or directors' designees;

(B) Representatives of the following as appointed by the director of ~~human~~ job and family services not later than August 30, 1999:

(1) Public children services agencies;

(2) County departments of ~~human~~ job and family services;

(3) Child support enforcement agencies;

(4) Area agencies on aging;

(5) Legal aid societies;

(6) Organizations the director determines should be represented on the council.

Sec. 5101.852. Based on the report of the grandparents raising

grandchildren task force created by Am. Sub. H.B. 215 of the 122nd general assembly, the kinship care services planning council shall make recommendations to the director of ~~human~~ job and family services that specify the types of services that should be included as part of a program providing support services to kinship caregivers.

The council shall make its recommendations to the director of ~~human~~ job and family services no later than December 31, 1999. The council shall cease to exist on the date it makes the recommendations.

Sec. 5101.853. (A) As used in this section, "qualified state expenditures" has the meaning provided by section 409(a)(7)(B)(i) of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, 42 U.S.C.A. 609(a)(7)(B)(i).

(B) Using qualified state expenditures and based on the recommendations of the kinship care services planning council, the department of ~~human~~ job and family services shall establish a program providing support services to kinship caregivers that addresses the needs of those caregivers. The department shall establish the program no later than March 31, 2000. The program shall provide support services that include the following:

(1) Publicly funded child day-care;

(2) Respite care;

(3) Training related to caring for special needs children;

(4) A toll-free telephone number that may be called to obtain basic information about the rights of, and services available to, kinship caregivers;

(5) Legal services.

Sec. 5101.854. The department of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the program to provide support services to kinship caregivers. To the extent permitted by federal law and the Revised Code, the rules may expand eligibility for programs administered by the department in a manner making kinship caregivers eligible for the programs.

Sec. 5101.93. (A) There is hereby established a welfare oversight council consisting of eight voting members, four of whom shall be members of the house of representatives, two appointed by the speaker and two appointed by the minority leader of the house of representatives, not more than two of whom shall be members of the same political party, and four of whom shall be members of the senate, two appointed by the president and two appointed by the minority leader of the senate, not more than two of whom shall be members of the same political party. The ~~director~~ directors of administrative services~~, the administrator of the bureau of employment~~

~~services,~~ and ~~the director of human~~ job and family services shall be ex officio nonvoting members ~~and two~~. Two representatives of the general public appointed by the governor shall be nonvoting members of the council. The council may, by a majority vote, add other nonvoting members to the council. A vacancy on the council shall be filled in the same manner as the original appointment.

(B) The speaker of the house of representatives shall designate the initial chairperson of the welfare oversight council and the president of the senate shall designate the initial vice-chairperson of the council. Thereafter, the authority to designate the chairperson and the vice-chairperson shall alternate between the speaker of the house and the president of the senate. The chairperson and vice-chairperson and other members of the council shall serve one-year terms.

The council shall meet at least four times a year in Columbus or other locations selected by the chairperson to monitor and review the Ohio works first program established under Chapter 5107. of the Revised Code, including sanctions imposed under section 5107.16 of the Revised Code; the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code; and the department of ~~human~~ job and family services, county departments of ~~human~~ job and family services, child support enforcement agencies, and public children services agencies. The council may visit the department, county departments, and agencies.

The chairperson of the council shall determine the agenda for each meeting of the council, except that if at least four legislative members of the council submit a written request to the chairperson to consider an item, the chairperson shall place the item on the agenda of the council's next regularly scheduled meeting occurring more than ten days after the written request is submitted to the chairperson.

(C) The members of the welfare oversight council shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the discharge of their official duties. In the discharge of its duties the council may issue subpoenas compelling the attendance of witnesses and the production of any records of the department of ~~human~~ job and family services or local agencies. The council shall adopt rules to implement this section.

(D) The welfare oversight council shall advise the general assembly on the performance of the department of ~~human~~ job and family services, county departments of ~~human~~ job and family services, child support enforcement agencies, and public children services agencies. The council shall submit recommendations to the general assembly for any changes in law that the

council considers necessary or appropriate.

Sec. 5103.03. The ~~department~~ director of ~~human~~ job and family services shall adopt rules as necessary for the adequate and competent management of institutions or associations. Except for facilities under the control of the department of youth services, places of detention for children established and maintained pursuant to sections 2151.34 to 2151.3415 of the Revised Code, and child day-care centers subject to Chapter 5104. of the Revised Code, the department of ~~human~~ job and family services every two years shall pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes.

When the department of ~~human~~ job and family services is satisfied as to the care given such children, and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, it shall issue to the institution or association a certificate to that effect. A certificate is valid for two years, unless sooner revoked by the department. When determining whether an institution or association meets a particular requirement for certification, the department may consider the institution or association to have met the requirement if the institution or association shows to the department's satisfaction that it has met a comparable requirement to be accredited by a nationally recognized accreditation organization.

The department may issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum requirements have been met.

The department may revoke a certificate if it finds that the institution or association is in violation of law or rule. No juvenile court shall commit a child to an association or institution that is required to be certified under this section if its certificate has been revoked or, if after revocation, the date of reissue is less than fifteen months prior to the proposed commitment.

Every two years, on a date specified by the department, each institution or association desiring certification or recertification shall submit to the department a report showing its condition, management, competency to care adequately for the children who have been or may be committed to it or to whom it provides care or services, the system of visitation it employs for children placed in private homes, and other information the department requires.

The department shall, not less than once each year, send a list of certified institutions and associations to each juvenile court and certified association or institution.

No person shall receive children or receive or solicit money on behalf of such an institution or association not so certified or whose certificate has been revoked.

The ~~department~~ director may delegate by rule any duties imposed on it by this section to inspect and approve family foster homes and treatment foster homes to public children services agencies, private child placing agencies, or private noncustodial agencies.

Sec. 5103.031. (A) As used in this section, "HIV" has the same meaning as in section 3701.24 of the Revised Code.

(B) The ~~department~~ director of ~~human~~ job and family services shall provide, by rules adopted pursuant to Chapter 119. of the Revised Code, for the licensure of crisis nurseries as either type A or type B crisis nurseries. The rules shall specify that a license shall not be issued to an applicant for licensure as a crisis nursery if the conditions at any of its facilities would jeopardize the health or safety of the children to whom it provides care.

(C) A type A crisis nursery shall provide temporary shelter and other care for not more than twenty children at one time. Each child shall be under age six and drug-exposed, HIV-infected, or referred by a public children services agency~~, as defined in section 2151.011 of the Revised Code~~. No child shall receive shelter or other care from a particular type A crisis nursery for a period exceeding sixty days.

(D) A type B crisis nursery shall provide, without charging a fee, temporary services and care to children under age thirteen who are abused and neglected, at high risk of abuse and neglect, or members of families receiving child protective services. A type B crisis nursery shall also provide referrals to support services. No child shall receive services or care from a type B crisis nursery for more than thirty days in any year.

Sec. 5103.032. The department of ~~human~~ job and family services may apply to the United States secretary of health and human services for a federal grant under the "Temporary Child Care for Children With Disabilities and Crisis Nurseries Act," 100 Stat. 907 (1986), 42 U.S.C. 5117, to assist type B crisis nurseries licensed under section 5103.031 of the Revised Code in providing temporary services and care to minors.

Sec. 5103.04. No association whose object embraces the care of dependent, neglected, abused, or delinquent children, or the placing of such children in private homes, shall be incorporated unless the proposed articles of incorporation have been submitted first to the department of ~~human~~ job and family services. The secretary of state shall not issue a certificate of incorporation to such association until there is filed in ~~his~~ the secretary of state's office the certificate of the department that it has examined the

articles of incorporation, that in its judgment the incorporators are reputable and respectable persons, the proposed work is needed, and the incorporation of such association is desirable and for the public good.

Amendments proposed to the articles of incorporation of any such association shall be submitted in like manner to the department, and the secretary of state shall not record such amendment or issue ~~his~~ a certificate therefor until there is filed in ~~his~~ the secretary of state's office the certificate of the department that it has examined such amendment, that the association in question is performing in good faith the work undertaken by it, and that such amendment is a proper one, and for the public good.

Sec. 5103.07. The department of ~~human~~ job and family services shall administer funds received under Title IV-B of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 620, as amended, the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 (1974), 42 U.S.C.A. 5101, as amended, and the "Family Violence Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A. 10401, as amended. In administering these funds, the department may establish a child welfare services program, a child abuse and neglect prevention and adoption reform program, and a family violence prevention program. The department has all powers necessary for the adequate administration of these funds and programs~~, including the adoption of~~. The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code and ~~the issuance of~~ issue appropriate orders as necessary for the adequate administration of these funds and programs.

Sec. 5103.08. The department of ~~human~~ job and family services may enter into contracts with the department of education authorizing the department of ~~human~~ job and family services to administer funds received by the department of education under the "State Dependent Care Development Grants Act," 100 Stat. 968 (1986), 42 U.S.C.A. 9871, as amended. In fulfilling its duties under such a contract, the department of ~~human~~ job and family services may make grants to or enter into contracts with other public or private entities.

Sec. 5103.12. (A) As used in this section:

(1) "Hearing" has the same meaning as in section 119.01 of the Revised Code.

(2) "Permanent custody" has the same meaning as in section 2151.011 of the Revised Code.

(B) The department of ~~human~~ job and family services may enter into agreements with public children services agencies and private child placing agencies under which the department will make payments to encourage the

adoptive placement of children in the permanent custody of a public children services agency. If the department terminates, or refuses to enter into or renew, an agreement with a public children services agency or private child placing agency under this section, the agency is entitled to a hearing.

Notwithstanding section 127.16 of the Revised Code, the department is not required to follow competitive selection procedures or to receive the approval of the controlling board to enter into agreements under this section or to make payments pursuant to the agreements.

(C) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules that establish all of the following:

(1) A single, uniform agreement that, at a minimum, prescribes a payment schedule and the terms and conditions with which a public children services agency or private child placing agency must comply to receive a payment;

(2) Eligibility requirements a public children services agency or private child placing agency must meet to enter into an agreement with the department;

(3) Eligibility requirements that a child who is the subject of an agreement must meet;

(4) Other administrative and operational requirements.

Sec. 5103.14. The department of ~~human~~ job and family services shall enforce sections 2151.39, 5103.15, and 5103.16 of the Revised Code.

Sec. 5103.151. (A) As used in this section and in section 5103.152 of the Revised Code, "identifying information" has the same meaning as in section 3107.01 of the Revised Code.

(B) Except as provided in division (C) of this section, a parent of a minor who will be, if adopted, an adopted person as defined in section 3107.45 of the Revised Code shall do all of the following as a condition of a juvenile court approving the parent's agreement with a public children services agency or private child placing agency under division (B)(1) of section 5103.15 of the Revised Code:

(1) Appear personally before the court;

(2) Sign the component of the form prescribed ~~by the department of human services~~ under division (A)(1)(a) of section 3107.083 of the Revised Code;

(3) Check either the "yes" or "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code and sign that component;

(4) If the parent is the mother, complete and sign the component of the form prescribed under division (A)(1)(c) of section 3107.083 of the Revised Code.

At the time the parent signs the components of the form prescribed under divisions (A)(1)(a), (b), and (c) of section 3107.083 of the Revised Code, the parent may sign, if the parent chooses to do so, the components of the form prescribed under divisions (A)(1)(d), (e), and (f) of that section. After the parent signs the components required to be signed and any discretionary components the parent chooses to sign, the parent or agency shall file the form and agreement with the court. The court or agency shall give the parent a copy of the form and agreement. The court and agency shall keep a copy of the form and agreement in the court and agency's records. The agency shall file a copy of the form and agreement with the probate court with which a petition to adopt the child who is the subject of the agreement is filed.

The juvenile court shall question the parent to determine that the parent understands the adoption process, the ramifications of entering into a voluntary permanent custody surrender agreement, each component of the form prescribed under division (A)(1) of section 3107.083 of the Revised Code, and that the child and adoptive parent may receive identifying information about the parent in accordance with section 3107.47 of the Revised Code unless the parent checks the "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code or has a denial of release form filed with the department of health under section 3107.46 of the Revised Code. The court also shall question the parent to determine that the parent enters into the permanent custody surrender agreement voluntarily and any decisions the parent makes in filling out the form prescribed under division (A)(1) of section 3107.083 of the Revised Code are made voluntarily.

(C) A juvenile court may approve an agreement entered into under division (B)(1) of section 5103.15 of the Revised Code between a public children services agency or private child placing agency and the parents of a child who is less than six months of age and will be, if adopted, an adopted person as defined in section 3107.45 of the Revised Code without the parents personally appearing before the court if both parents do all of the following:

(1) Enter into the agreement with the agency;

(2) Sign the component of the form prescribed ~~by the department of human services~~ under division (A)(1)(a) of section 3107.083 of the Revised Code;

(3) Check either the "yes" or "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code and sign that component.

At the time the parents sign the components of the form prescribed under divisions (A)(1)(a) and (b) of section 3107.083 of the Revised Code, the mother shall complete and sign the component of the form prescribed under division (A)(1)(c) of that section and the agency shall provide the parents the opportunity to sign, if they choose to do so, the components of the form prescribed under divisions (A)(1)(d), (e), and (f) of that section. Not later than two business days after the parents enter into the agreements and sign the components of the form required to be signed and any discretionary components the parents choose to sign, the agency shall file the agreements and forms with the court. The agency shall give the parents a copy of the agreements and forms. At the time the agency files the agreements and forms with the court, the agency also shall file with the court all other documents the ~~department~~ director of ~~human~~ job and family services requires by rules adopted under division (D) of section 3107.083 of the Revised Code to be filed with the court. The court and agency shall keep a copy of the agreements, forms, and documents in the court and attorney's records. The agency shall file a copy of the agreements, forms, and documents with the probate court with which a petition to adopt the child who is the subject of the agreement is filed.

(D) Except as provided in division (E) of this section, a parent of a minor, who will be, if adopted, an adopted person as defined in section 3107.39 of the Revised Code, shall do all of the following as a condition of a juvenile court approving the parent's agreement with a public children services agency or private child placing agency under division (B)(1) of section 5103.15 of the Revised Code:

(1) Appear personally before the court;

(2) Sign the component of the form prescribed ~~by the department of human services~~ under division (B)(1)(a) of section 3107.081 of the Revised Code;

(3) If the parent is the mother, complete and sign the component of the form prescribed under division (B)(1)(b) of section 3107.083 of the Revised Code.

At the time the parent signs the components prescribed under division (B)(1)(a) and (b) of section 3107.081 of the Revised Code, the parent may sign, if the parent chooses to do so, the components of the form prescribed under divisions (B)(1)(c), (d), and (e) of that section. After the parent signs the components required to be signed and any discretionary components the

parent chooses to sign, the parent or agency shall file the form and agreement with the court. The court or agency shall give the parent a copy of the form and agreement. The court and agency shall keep a copy of the form and agreement in the court and agency's records. The agency shall file a copy of the form and agreement with the probate court with which a petition to adopt the child who is the subject of the agreement is filed.

The juvenile court shall question the parent to determine that the parent understands the adoption process, the ramifications of entering into a voluntary permanent custody surrender agreement, and each component of the form prescribed under division (B)(1) of section 3107.083 of the Revised Code. The court also shall question the parent to determine that the parent enters into the permanent custody surrender agreement voluntarily and any decisions the parent makes in filling out the form are made voluntarily.

(E) A juvenile court may approve an agreement entered into under division (B)(1) of section 5103.15 of the Revised Code between a public children services agency or private child placing agency and the parent of a child who is less than six months of age and will be, if adopted, an adopted person as defined in section 3107.39 of the Revised Code without the parent personally appearing before the court if the parent does both of the following:

(1) Signs the component of the form prescribed ~~by the department of humanservices~~ under division (B)(1)(a) of section 3107.083 of the Revised Code;

(2) If the parent is the mother, completes and signs the component of the form prescribed under division (B)(1)(b) of section 3107.083 of the Revised Code.

At the time the parent signs that component, the agency shall provide the parent the opportunity to sign, if the parent chooses to do so, the components of the form prescribed under divisions (B)(1)(c), (d), and (e) of section 3107.083 of the Revised Code. Not later than two business days after the parent enters into the agreement and signs the components of the form required to be signed and any discretionary components the parent chooses to sign, the agency shall file the agreement and form with the court. The agency shall give the parent a copy of the agreement and form. At the time the agency files the agreement and form with the court, the agency also shall file with the court all other documents the ~~department~~ director of ~~human~~ job and family services requires by rules adopted under division (D) of section 3107.083 of the Revised Code to be filed with the court. The court and agency shall keep a copy of the agreement, form, and documents

in the court and agency's records. The agency shall file a copy of the agreement, form, and documents with the probate court with which a petition to adopt the child who is the subject of the agreement is filed.

Sec. 5103.152. Not less than seventy-two hours before a public children services agency or private child placing agency enters into an agreement with a parent under division (B) of section 5103.15 of the Revised Code, an assessor shall meet in person with the parent and do both of the following:

(A) Provide the parent with a copy of the written materials about adoption prepared by the department of ~~human~~ job and family services under division (C) of section 3107.083 of the Revised Code, discuss with the parent the adoption process and ramifications of a parent entering into a voluntary permanent custody surrender agreement, and provide the parent the opportunity to review the materials and ask questions about the materials, discussion, and related matters.

(B) Unless the child who is the subject of the agreement, if adopted, will be an adopted person as defined in section 3107.39 of the Revised Code, inform the parent that the parent's child and the adoptive parent may receive, in accordance with section 3107.47 of the Revised Code, identifying information about the parent that is contained in the child's adoption file maintained by the department of health unless the parent checks the "no" space provided on the component of the form prescribed under division (A)(1)(b) of section 3107.083 of the Revised Code or signs and has filed with the department a denial of release form prescribed under section 3107.50 of the Revised Code.

Sec. 5103.154. (A) Information concerning all children who are, pursuant to section 2151.353 or 5103.15 of the Revised Code, in the permanent custody of an institution or association certified by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code shall be listed with the department ~~of human services~~ within ninety days after permanent custody is effective, unless the child has been placed for adoption or unless an application for placement was initiated under section 5103.16 of the Revised Code.

(B) All persons who wish to adopt children, and are approved by an agency so empowered under this chapter, shall be listed with the department ~~of human services~~ within ninety days of approval, unless a person requests in writing that that person's name not be so listed, or has had a child placed in that person's home in preparation for adoption, or has filed a petition for adoption.

(C) All persons who wish to adopt a child with special needs as defined in rules adopted under section 5153.163 of the Revised Code, and who are

approved by an agency so empowered under this chapter, shall be listed separately by the department ~~of human services~~ within ninety days of approval, unless a person requests in writing that that person's name not be so listed, or has had a child with special needs placed in that person's home in preparation for adoption, or has filed a petition for adoption.

(D) The department shall forward information on such children and listed persons at least quarterly, to all public children services agencies and all certified agencies.

(E) The appropriate listed names shall be removed when a child is placed in an adoptive home or when a person withdraws an application for adoption.

(F) No later than six months after the end of each fiscal year, the department ~~of human services~~ shall compile a report of its conclusions regarding the effectiveness of its actions pursuant to this section and of the restrictions on placement under division (E) of section 5153.163 of the Revised Code in increasing adoptive placements of children with special needs, together with its recommendations, and shall submit a copy of the report to the chairpersons of the principal committees of the senate and the house of representatives who consider welfare legislation.

Sec. 5103.16. (A) Except as otherwise provided in this section, no child shall be placed or accepted for placement under any written or oral agreement or understanding that transfers or surrenders the legal rights, powers, or duties of the legal parent, parents, or guardian of the child into the temporary or permanent custody of any association or institution that is not certified by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code, without the written consent of the office in the department that oversees the interstate compact on placement of children established under section 5103.20 of the Revised Code, or by a commitment of a juvenile court, or by a commitment of a probate court as provided in this section. A child may be placed temporarily without written consent or court commitment with persons related by blood or marriage or in a legally licensed boarding home.

(B)(1) Associations and institutions certified under section 5103.03 of the Revised Code for the purpose of placing children in free foster homes or for legal adoption shall keep a record of the temporary and permanent surrenders of children. This record shall be available for separate statistics, which shall include a copy of an official birth record and all information concerning the social, mental, and medical history of the children that will aid in an intelligent disposition of the children in case that becomes necessary because the parents or guardians fail or are unable to reassume

custody.

(2) No child placed on a temporary surrender with an association or institution shall be placed permanently in a foster home or for legal adoption. All surrendered children who are placed permanently in foster homes or for adoption shall have been permanently surrendered, and a copy of the permanent surrender shall be a part of the separate record kept by the association or institution.

(C) Any agreement or understanding to transfer or surrender the legal rights, powers, or duties of the legal parent or parents and place a child with a person seeking to adopt the child under this section shall be construed to contain a promise by the person seeking to adopt the child to pay the expenses listed in divisions (C)(1), (2), and (4) of section 3107.10 of the Revised Code and, if the person seeking to adopt the child refuses to accept placement of the child, to pay the temporary costs of routine maintenance and medical care for the child in a hospital, foster home, or other appropriate place for up to thirty days or until other custody is established for the child, as provided by law, whichever is less.

(D) No child shall be placed or received for adoption or with intent to adopt unless placement is made by a public children services agency, an institution or association that is certified by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code to place children for adoption, or custodians in another state or foreign country, or unless all of the following criteria are met:

(1) Prior to the placement and receiving of the child, the parent or parents of the child personally have applied to, and appeared before, the probate court of the county in which the parent or parents reside, or in which the person seeking to adopt the child resides, for approval of the proposed placement specified in the application and have signed and filed with the court a written statement showing that the parent or parents are aware of their right to contest the decree of adoption subject to the limitations of section 3107.16 of the Revised Code;

(2) The court ordered an independent home study of the proposed placement to be conducted as provided in section 3107.031 of the Revised Code, and after completion of the home study, the court determined that the proposed placement is in the best interest of the child;

(3) The court has approved of record the proposed placement.

In determining whether a custodian has authority to place children for adoption under the laws of a foreign country, the probate court shall determine whether the child has been released for adoption pursuant to the laws of the country in which the child resides, and if the release is in a form

that satisfies the requirements of the immigration and naturalization service of the United States department of justice for purposes of immigration to this country pursuant to section 101(b)(1)(F) of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101 (b)(1)(F), as amended or reenacted.

If the parent or parents of the child are deceased or have abandoned the child, as determined under division (A) of section 3107.07 of the Revised Code, the application for approval of the proposed adoptive placement may be brought by the relative seeking to adopt the child, or by the department, board, or organization not otherwise having legal authority to place the orphaned or abandoned child for adoption, but having legal custody of the orphaned or abandoned child, in the probate court of the county in which the child is a resident, or in which the department, board, or organization is located, or where the person or persons with whom the child is to be placed reside. Unless the parent, parents, or guardian of the person of the child personally have appeared before the court and applied for approval of the placement, notice of the hearing on the application shall be served on the parent, parents, or guardian.

The consent to placement, surrender, or adoption executed by a minor parent before a judge of the probate court or an authorized deputy or referee of the court, whether executed within or outside the confines of the court, is as valid as though executed by an adult. A consent given as above before an employee of a children services agency that is licensed as provided by law, is equally effective, if the consent also is accompanied by an affidavit executed by the witnessing employee or employees to the effect that the legal rights of the parents have been fully explained to the parents, prior to the execution of any consent, and that the action was done after the birth of the child.

If the court approves a placement, the prospective adoptive parent with whom the child is placed has care, custody, and control of the child pending further order of the court.

(E) This section does not apply to an adoption by a stepparent, a grandparent, or a guardian.

Sec. 5103.17. Subject to section 5103.16 of the Revised Code, no person or government entity, other than a private child placing agency or private noncustodial agency certified by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code or a public children services agency, shall advertise that the person or government entity will adopt children or place them in foster homes, hold out inducements to parents to part with their offspring, or in any manner

knowingly become a party to the separation of a child from the child's parents or guardians, except through a juvenile court or probate court commitment.

If the department of ~~human~~ job and family services has reasonable cause to believe a violation of this section has been committed, the department shall notify the attorney general or the county prosecutor, city attorney, village solicitor, or other chief legal officer of the political subdivision in which the violation has allegedly occurred. On receipt of the notification, the attorney general, county prosecutor, city attorney, village solicitor, or other chief legal officer shall take action to enforce this section through injunctive relief or criminal charge.

Sec. 5103.22. The "appropriate public authorities" as used in Article III of the interstate compact on the placement of department of ~~human~~ job and family services and that department shall receive and act with reference to notices required by said Article III.

Sec. 5103.23. As used in paragraph (A) of Article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the department of ~~human~~ job and family services.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of ~~human~~ job and family services to operate a certified type B family day-care home.

(D) "Border state child day-care provider" means a child day-care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child day-care.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director

of the county department of ~~human~~ job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child day-care pursuant to this chapter and any rules adopted under it.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(H) "Child" includes an infant, toddler, preschool child, or school child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child day-care or publicly funded child day-care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are

monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:

(a) An organized religious body provides the child day-care;

(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;

(c) The child day-care is not provided for more than thirty days a year;

(d) The child day-care is provided only for preschool and school children.

(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.

(N) "Child day-care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child day-care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child day-care;

(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;

(4) Recruitment of child day-care providers;

(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child day-care in the community;

(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;

(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and

formational resources to child day-care providers;

(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of ~~human~~ job and family services;

(11) Cooperation with the county department of ~~human~~ job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.

(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.

(Q) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under section 3301.31 of the Revised Code.

(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care

home's compliance with licensing requirements.

(W) "Infant" means a child who is less than eighteen months of age.

(X) "In-home aide" means a person certified by a county director of ~~human~~ job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of ~~human~~ job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the

corporation or association is on the premises of the center or type A home during its hours of operation.

(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child.

(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(HH) "Preschool child" means a child who is three years old or older but is not a school child.

(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective day-care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of ~~human~~ job and family services to be homeless, and are otherwise ineligible for publicly funded child day-care.

(JJ) "Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including child care block grant act funds, distributed by the department of ~~human~~ job and family services.

(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child day-care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

(NN) "Special needs day-care" means publicly funded child day-care that is provided for a child who is physically or developmentally handicapped, mentally retarded, or mentally ill.

(OO) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

(PP) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

(QQ) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" and "type A home" do not include any child day camp.

(RR) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.011. (A) The director of ~~human~~ job and family services shall

adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of child day-care centers, including, but not limited to, parent cooperative centers, part-time centers, drop-in centers, and school child centers, which rules shall reflect the various forms of child day-care and the needs of children receiving child day-care or publicly funded child day-care and, no later than January 1, 1992, shall include specific rules for school child day-care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of

children traveling off the premises of the center while under the care of a center employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial and renewal license application fees;

(12) Procedures for receiving, recording, and responding to complaints about centers;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of ~~human~~ job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;

(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the center;

(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child day-care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas,

rooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(2) The child day-care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section.

(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(c) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this

section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of Children Per Child-Care Staff Member	Maximum Group Size
(a) Infants:		
(i) Less than twelve months old	5:1, or 12:2 if two child-care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		
(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but		

is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(4)(a) The child day-care center administrator shall show the director both of the following:

(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;

(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood education, or at least two years of experience in supervising and giving daily care to children attending an organized group program.

(b) In addition to the requirements of division (B)(4)(a) of this section, any administrator employed or designated on or after September 1, 1986, shall show evidence of, and any administrator employed or designated prior to September 1, 1986, shall show evidence within six years after such date of, at least one of the following:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of ~~human~~ job and family services or state board of education, except as follows:

(a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

(i) A graduate of a two-year vocational child-care training program approved by the state board of education;

(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; or

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(6) Every child day-care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or

early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori international. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

(7) The administrator of each child day-care center shall prepare at least once annually and for each group of children at the center a roster of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center and upon request shall furnish the roster for each group to the parents, custodians, or guardians of the children in that group. The administrator may prepare a roster of names and telephone numbers of all parents, custodians, or guardians of children attending the center and upon request shall furnish the roster to the parents, custodians, or guardians of the children who attend the center. The administrator shall not include in any roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to any person other than a parent, custodian, or guardian of a child who attends the center.

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid and in prevention, recognition, and management of communicable diseases which is approved by the state department of health and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of ~~human~~ job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, except as otherwise provided in division (B)(7) of this section and except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the

nistrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a visitation order or decree issued under that section, section 3109.11 or 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a visitation order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of ~~human~~ job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, but not be limited to, the requirements set forth in divisions

(B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number of inservice training hours required under division (B)(6) of this section; or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section; however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than one and one-half hours during a twenty-four-hour day.

(F) The director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of

child day-care and the needs of children receiving child day-care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the type A home;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial and renewal license application fees;

(12) Procedures for receiving, recording, and responding to complaints about type A homes;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on or after July 1, 1987, of a

current department of ~~human~~ job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;

(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type A home;

(18) Standards for the maximum number of children per child-care staff member;

(19) Requirements for the amount of usable indoor floor space for each child;

(20) Requirements for safe outdoor play space;

(21) Qualifications and training requirements for administrators and for child-care staff members;

(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(23) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;

(24) Any other procedures and standards necessary to carry out this chapter.

(G) The director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.

(1) The rules shall include procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:

(a) Persons who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;

(b) Persons who provide child day-care for eligible children all of whom

are the children of the same caretaker parent.

The rules shall require, and shall include procedures for the director to ensure, that type B family day-care homes that receive a limited certification provide child day-care to children in a safe and sanitary manner. With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets the standards for limited certification. Such provisional limited certifications shall remain in effect for no more than sixty calendar days and shall entitle the provider to offer publicly funded child day-care during the provisional period. Except as otherwise provided in division (G)(1) of this section, prior to the expiration of the provisional limited certificate, a county department of ~~human~~ job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a) of this section or a person described in division (G)(1)(b) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of ~~human~~ job and family services that minimum health and safety requirements are being met in the home. If such verification is provided, the county shall waive any inspection and any criminal records check required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child day-care or publicly funded child day-care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures

for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;

(f) Standards for the safe transport of children when under the care of authorized providers;

(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;

(i) Procedures for record keeping and evaluation;

(j) Procedures for receiving, recording, and responding to complaints;

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type B home;

(l) Requirements for the amount of usable indoor floor space for each child;

(m) Requirements for safe outdoor play space;

(n) Qualification and training requirements for authorized providers;

(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(p) Any other procedures and standards necessary to carry out this chapter.

(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child day-care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child day-care in their own home and shall include the following:

(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;

(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(6) Standards for the safe transport of children when under the care of in-home aides;

(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;

(9) Procedures for record keeping and evaluation;

(10) Procedures for receiving, recording, and responding to complaints;

(11) Qualifications and training requirements for in-home aides;

(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child day-care in the child's own home;

(13) Any other procedures and standards necessary to carry out this chapter.

(I) The director of ~~human~~ job and family services shall send copies of proposed rules to each licensee and each county director of ~~human~~ job and family services and shall give public notice of hearings regarding the rules to each licensee and each county director of ~~human~~ job and family services at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. Prior to the effective date of a rule, the director of ~~human~~ job and family services shall provide copies of the adopted rule to each licensee and each county director of ~~human~~ job and

ily services.

The county director of ~~human~~ job and family services shall send copies of proposed rules to each authorized provider and in-home aide and shall give public notice of hearings regarding the rules to each authorized provider and in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. Prior to the effective date of a rule, the county director of ~~human~~ job and family services shall provide copies of the adopted rule to each authorized provider and in-home aide.

Additional copies of proposed and adopted rules shall be made available by the director of ~~human~~ job and family services to the public on request at no charge.

(J) The director of ~~human~~ job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(K) Notwithstanding any provision of the Revised Code, the director of ~~human~~ job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.012. (A)(1) The administrator of a child day-care center or a ~~type A~~ type A family day-care home and the provider of a certified ~~type B~~ type B family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center, ~~type A~~ type A home, or certified ~~type B~~ type B home for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the administrator or provider shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the administrator or provider may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised

Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center, ~~type A~~ type A home, or ~~type B~~ type B home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted ~~by the department of human services in accordance with~~ under division (E) of this section, no child day-care center, ~~type A~~ type A family day-care home, or certified ~~type B~~ type B family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date,~~,~~ a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A child day-care center, ~~type-A~~ type A family day-care home, or certified ~~type-B~~ type B family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center, ~~type-A~~ type A family day-care home, and certified ~~type-B~~ type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center, ~~type-A~~ type A family day-care home, and certified ~~type-B~~ type B family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center, ~~type-A~~ type A home, or ~~type-B~~ type B home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative; the center, ~~type-A~~ type A home, or certified ~~type-B~~ type B home requesting the criminal records check or its representative; the ~~state~~ department of ~~human~~ job and family services or a county department of ~~human~~ job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The ~~department~~ director of ~~human~~ job and family services shall

adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center, a ~~type-A~~ type A family day-care home, or a certified ~~type-B~~ type B family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center, a ~~type-A~~ type A family day-care home, or a certified ~~type-B~~ type B family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 5104.013. (A)(1) The director of ~~human~~ job and family services, as part of the process of licensure of child day-care centers and ~~type-A~~ type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center;

(b) Any owner, licensee, or administrator of a ~~type-A~~ type A family day-care home and any person eighteen years of age or older who resides in a ~~type-A~~ type A family day-care home.

(2) The director of a county department of ~~human~~ job and family services, as part of the process of certification of ~~type-B~~ type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with

respect to any authorized provider of a certified ~~type-B~~ type B family day-care home and any person eighteen years of age or older who resides in a certified ~~type-B~~ type B family day-care home.

(B) The director of ~~human~~ job and family services or the director of a county department of ~~human~~ job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted ~~by the department of human services in accordance with~~ under division (G) of this section, the director of ~~human~~ job and family services shall not grant a license to a child day-care center or ~~type-A~~ type A family day-care home and a county director of ~~human~~ job and family services shall not certify a ~~type-B~~ type B family day-care home if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the following:

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date,~~,~~ a violation of section 2925.11 of the Revised Code that is

not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(2) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (D)(1) of this section.

(E) Each child day-care center, ~~type A~~ type A family day-care home, and ~~type B~~ type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of ~~human~~ job and family services, the director of a county department of ~~human~~ job and family services, the center, ~~type A~~ type A home, or ~~type B~~ type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the department.

(H) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 5104.014. The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the licensing of child day-care centers for children with short-term illnesses and other temporary medical conditions.

Sec. 5104.015. (A) Except as otherwise provided in division (C) of this section, no child day-care center shall permit any person to smoke in any indoor or outdoor space that is part of the center.

The administrator of a child day-care center shall post in a conspicuous place at the main entrance of the center a notice stating that smoking is prohibited in any indoor or outdoor space that is part of the center, except under the conditions described in division (C) of this section.

(B) Except as otherwise provided in division (C) of this section, no type A family day-care home or certified type B family day-care home shall permit any person to smoke in any indoor or outdoor space that is part of the home during the hours the home is in operation. Smoking may be permitted during hours other than the hours of operation if the administrator or authorized provider of the home has provided to a parent, custodian, or guardian of each child receiving child day-care at the home notice that smoking occurs or may occur at the home when it is not in operation.

The administrator of a type A family day-care home or authorized provider of a certified type B family day-care home shall post in a conspicuous place at the main entrance of the home a notice specifying the hours the home is in operation and stating that smoking is prohibited during those hours in any indoor or outdoor space that is part of the home, except under the conditions described in division (C) of this section.

(C) A child day-care center, type A family day-care home, or certified type B family home may allow persons to smoke at the center or home during its hours of operation if those persons cannot be seen smoking by the children being cared for and if they smoke in either of the following:

(1) An indoor area that is separately ventilated from the rest of the center or home;

(2) An outdoor area that is so far removed from the children being cared for that they cannot inhale any smoke.

(D) The director of ~~human~~ job and family services, in consultation with the director of health, shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the requirements of this section. These rules may prohibit smoking in a child day-care center, type A family day-care home, or certified type B family home if its design and structure do not allow persons to smoke under the conditions described in division (C) of this section or if repeated violations of division (A) or (B) of this section have occurred there.

Sec. 5104.02. (A) The director of ~~human~~ job and family services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license

issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program of child day-care that operates for two or less consecutive weeks;

(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child day-care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of ~~human~~ job and family services or the state board of education when the director of ~~human~~ job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of ~~human~~ job and family services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;

(iii) The number of adults providing child day-care for the number of

infants, toddlers, preschool children, or school children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of ~~human~~ job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.021. The director of ~~human~~ job and family services may not

issue a child day-care center or type A family day-care home license to a youth development program that is exempted by division (B)(9) of section 5104.02 of the Revised Code from the requirements of this chapter.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency desiring to establish a child day-care center or type A family day-care home shall apply for a license to the director of ~~human~~ job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the day-care license requirements in Chapter 5104. of the Revised Code and of the rules adopted pursuant to Chapter 5104. of the Revised Code. The director shall mail application forms for renewal of license at least one hundred twenty days prior to the date of expiration of the license, and the application for renewal shall be filed with the director at least sixty days before the date of expiration. Fees shall be set by the director pursuant to section 5104.011 of the Revised Code and shall be paid at the time of application for or renewal of a license to operate a center or type A home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B) Upon filing of the application for a license, the director shall investigate and inspect the center or type A home to determine the license capacity for each age category of children of the center or type A home and to determine whether the center or type A home complies with Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code. When, after investigation and inspection, the director is satisfied that Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code are complied with, a provisional license shall be issued as soon as practicable in such form and manner as prescribed by the director. The provisional license shall be valid for six months from the date of issuance unless revoked.

(C) The director shall investigate and inspect the center or type A home at least once during operation under the provisional license. If after the investigation and inspection the director determines that the requirements of Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code are met, the director shall issue a license to be effective for two years from the date of issuance of the provisional license.

(D) Upon the filing of an application for renewal of a license by the center or type A home, the director shall investigate and inspect the center or type A home. If the director determines that the requirements of Chapter 5104. and rules adopted pursuant to Chapter 5104. of the Revised Code are met, the director shall renew the license to be effective for two years from the expiration date of the previous license.

(E) The license or provisional license shall state the name of the licensee, the name of the administrator, the address of the center or type A home, and the license capacity for each age category of children. After July 1, 1987, the provisional license or license shall include thereon, in accordance with section 5104.011 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center or type A home has violated a provision of Chapter 5104., or rules adopted pursuant to Chapter 5104. of the Revised Code. A license or provisional license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license or provisional license is the maximum number of children in each age category that may be cared for in the center or type A home at one time.

The center or type A home licensee shall notify the director when the administrator of the center or home changes. The director shall amend the current license or provisional license to reflect a change in an administrator, if the administrator meets the requirements of Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code, or a change in license capacity for any age category of children as determined by the director of ~~human~~ job and family services.

(F) If the director revokes a license or refuses to renew a license to a center or a type A home, the director shall not issue a license to the owner of the center or type A home within two years from the date of the revocation of a license or refusal to renew a license. If during the application for licensure or renewal of licensure process the director determines that the license of the owner has been revoked or renewal of licensure has been denied, the investigation of the center or type A home shall cease, and shall not constitute denial of the application. All actions of the director with respect to licensing centers or type A homes, renewing a license, refusal to license or renew a license, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Any applicant who is denied a license or any owner whose license is not renewed or is revoked may appeal in accordance with section 119.12 of the Revised Code.

Sec. 5104.04. (A) The department of ~~human~~ job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1) The department shall, at least twice during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The

department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

At least one inspection shall be unannounced and all inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall investigate and may inspect a center or type A home.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall, at least once during every twelve-month period of operation of a center or type A home, collect information concerning the amounts charged by the center or home for providing child day-care services for use in establishing rates of reimbursement pursuant to section 5104.30 of the Revised Code.

(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license.

(D) The department may deny or revoke a license, or refuse to renew a license of a center or type A home, if the applicant knowingly makes a false statement on the application, does not comply with the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code, or has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

(E) If the department finds, after notice and hearing pursuant to Chapter

119. of the Revised Code, that any person, firm, organization, institution, or agency licensed under section 5104.03 of the Revised Code is in violation of any provision of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department may issue an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any order of revocation, the person whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(F) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

(G) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child day-care without a license issued or renewed pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code.

(H) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(I) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the

speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.05. (A) The director of ~~human~~ job and family services shall issue a provisional license or license or renew a license for the operation of a child day-care center, if the director finds, after investigation of the applicant and inspection of the center, that other requirements of Chapter 5104. of the Revised Code, rules promulgated pursuant to Chapter 5104. of the Revised Code, and the following requirements are met:

(1) The buildings in which the center is housed, subsequent to any major modification, have been approved by the department of commerce or a certified municipal, township, or county building department for the purpose of operating a child day-care center. Any structure used for the operation of a center shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. of the Revised Code and with regulations adopted by the board of building standards under Chapter 3781. of the Revised Code and this division for the safety and sanitation of structures erected for this purpose.

(2) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the center is located has inspected the center annually within the preceding license period and has found the center to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a child day-care center.

(3) The center has received a food service operation license under Chapter 3717. of the Revised Code if meals are to be served to children other than children of the licensee or administrator, whether or not a consideration is received for the meals.

(B) The director of ~~human~~ job and family services shall issue a provisional license or license or renew a license for the operation of a type A family day-care home, if the director finds, after investigation of the applicant and inspection of the type A home, that other requirements of Chapter 5104. of the Revised Code, rules promulgated pursuant to Chapter 5104. of the Revised Code, and the following requirements are met:

(1) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the type A family day-care home is located has inspected the type A home annually within the preceding license period and has found the type A home to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a type A home.

(2) The type A home is in compliance with rules set by the director of

~~human~~ job and family services in cooperation with the director of health pursuant to section 3701.80 of the Revised Code regarding meal preparation and meal service in the home. The director of ~~human~~ job and family services, in accordance with procedures recommended by the director of health, shall inspect each type A home to determine compliance with those rules.

(3) The type A home is in compliance with rules promulgated by the director of ~~human~~ job and family services in cooperation with the board of building standards regarding safety and sanitation pursuant to section 3781.10 of the Revised Code.

Sec. 5104.052. The director of ~~human~~ job and family services, in cooperation with the fire marshal pursuant to section 3737.22 of the Revised Code, shall promulgate rules regarding fire prevention and fire safety in certified type B family day-care homes.

Sec. 5104.06. (A) The director of ~~human~~ job and family services shall provide consultation, technical assistance, and training to child day-care centers and type A family day-care homes to improve programs and facilities providing child day-care including, but not limited to, assistance in meeting the requirements of Chapter 5104. and rules adopted pursuant to Chapter 5104. of the Revised Code and shall furnish information regarding child abuse identification and reporting of child abuse.

(B) The director of ~~human~~ job and family services shall provide consultation and technical assistance to county departments of ~~human~~ job and family services to assist the departments with the implementation of certification of type B family day-care home providers and in-home aides.

Sec. 5104.07. (A) The director of ~~human~~ job and family services may prescribe additional requirements for licensing child day-care centers or type A family day-care homes that provide publicly funded child day-care pursuant to this chapter and any rules adopted under it. The director shall develop standards as required by federal laws and regulations for day-care programs supported by federal funds.

(B)(1) On or before February 28, 1992, the department of ~~human~~ job and family services shall develop a statewide plan for child day-care resource and referral services. The plan shall be based upon the experiences of other states with respect to child day-care resource and referral services, the experiences of communities in this state that have child day-care resource and referral service organizations, and the needs of communities in this state that do not have child day-care resource and referral service organizations. The plan shall be designed to ensure that child day-care resource and referral services are available in each county in the state to

families who need child day-care. The department shall consider the special needs of migrant workers when it develops the plan and shall include in the plan procedures designed to accommodate the needs of migrant workers.

(2) The ~~department~~ director of ~~human~~ job and family services shall adopt rules for funding child day-care resource and referral service organizations. The rules shall include all of the following:

(a) A description of the services that a child day-care resource and referral service organization is required to provide to families who need child day-care;

(b) The qualifications for a child day-care resource and referral service organization;

(c) A description of the procedures for providing federal and state funding for county or multicounty child day-care resource and referral service organizations;

(d) A timetable for providing child day-care resource and referral services to all communities in the state;

(e) Uniform information gathering and reporting procedures that are designed to be used in compatible computer systems;

(f) Procedures for establishing statewide nonprofit technical assistance services to coordinate uniform data collection and to publish reports on child day-care supply, demand, and cost and to provide technical assistance to communities that do not have child day-care resource and referral service organizations and to existing child day-care resource and referral service organizations;

(g) Requirements governing contracts entered into under division (C) of this section, which may include limits on the percentage of funds distributed by the department that may be used for the contracts.

(C) Child day-care resource and referral service organizations receiving funds distributed by the department may, in accordance with rules adopted under division (B)(2) of this section, enter into contracts with local governmental entities, nonprofit organizations including nonprofit organizations that provide child day-care, and individuals under which the entities, organizations, or individuals may provide child day-care resource and referral services in the community with those funds, if the contracts are submitted to and approved by the department prior to execution.

Sec. 5104.08. There is hereby created in the department of ~~human~~ job and family services a day-care advisory council to advise and assist the department in the administration of this chapter and in the development of child day-care. The council shall consist of eighteen members appointed by the director of ~~human~~ job and family services with the approval of the

rnor. The director of ~~human~~ job and family services, the superintendent of public instruction, the director of health, the director of commerce, and the state fire marshal shall serve as nonvoting members of the council.

Six members shall be representatives of child day-care centers subject to licensing, the members to represent a variety of centers, including nonprofit and proprietary, from different geographical areas of the state. At least three members shall be parents, guardians, or custodians of children in a head start program or receiving child day-care or publicly funded child day-care in the child's own home, a center, type A home, certified type B home, or type B home at the time of appointment. Three members shall be representatives of in-home aides, type A homes, certified type B homes, or type B homes or head start programs. At least two members shall represent county departments of ~~human~~ job and family services. The remaining members shall be representatives of the teaching, child development, and health professions, and other individuals interested in the welfare of children. At least six members of the council shall not be employees or licensees of a child day-care center or type A home, or providers operating a certified type B home or type B home, or in-home aides.

Six of the original appointments shall be for one year, six for two years, and six for three years, and subsequent appointments shall be for three-year terms. Vacancies shall be filled for the unexpired terms.

The council shall advise the director on matters affecting the licensing of centers and type A homes and the certification of type B homes and in-home aides. The council shall make an annual report concerning the licensing, certification, and regulation program, the provision of publicly funded child day-care by border state child day-care providers, and the council's recommendations concerning the regulation program and border state child day-care providers. Copies of the report shall be provided to the director, governor, speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, made available to the public.

Members of the council shall serve without compensation but shall be reimbursed for necessary expenses.

Sec. 5104.081. The department of ~~human~~ job and family services shall employ at least one senior-level, full-time employee who shall manage and oversee all child day-care functions under the authority of the department.

Sec. 5104.09. (A)(1) No individual who has been convicted of or pleaded guilty to a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2905.11, 2907.02, 2907.03, 2907.04, 2907.05,

2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.24, 2919.25, 2921.03, 2921.34, 2921.35, 2923.12, 2923.13, 2923.161, 2919.22, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, as defined in section 2925.01 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, or a violation of an existing or former law or ordinance of any municipal corporation, this state, any other state, or the United States that is substantially equivalent to any of those violations shall be certified as an in-home aide or be employed in any capacity in or own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home.

(2) Each employee of a child day-care center and type A home and every person eighteen years of age or older residing in a type A home shall sign a statement on forms prescribed by the director of ~~human~~ job and family services attesting to the fact that the employee or resident person has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the employee's or resident person's home pursuant to section 2151.353 of the Revised Code. Each licensee of a type A home shall sign a statement on a form prescribed by the director attesting to the fact that no person who resides at the type A home and who is under the age of eighteen has been adjudicated a delinquent child for committing a violation of any section listed in division (A)(1) of this section. The statements shall be kept on file at the center or type A home.

(3) Each in-home aide, each authorized provider, and every person eighteen years of age or older residing in a certified type B home shall sign a statement on forms prescribed by the director of ~~human~~ job and family services attesting that the aide, provider, or resident person has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the aide's, provider's, or resident person's home pursuant to section 2151.353 of the Revised Code. Each authorized provider shall sign a statement on a form prescribed by the director attesting to the fact that no person who resides at the certified type B home and who is under the age of eighteen has been adjudicated a delinquent child for committing a violation of any section listed in division (A)(1) of this section. The statements shall be kept on file at the county

department of ~~human~~ job and family services.

(4) Each administrator and licensee of a center or type A home shall sign a statement on a form prescribed by the director of ~~human~~ job and family services attesting that ~~he~~ the administrator or licensee has not been convicted of or pleaded guilty to any offense set forth in division (A)(1) of this section and that no child has been removed from the administrator's or licensee's home pursuant to section 2151.353 of the Revised Code. The statement shall be kept on file at the center or type A home.

(B) No in-home aide, no administrator, licensee, authorized provider, or employee of a center, type A home, or certified type B home, and no person eighteen years of age or older residing in a type A home or certified type B home shall withhold information from, or falsify information on, any statement required pursuant to division (A)(2), (3), or (4) of this section.

(C) No administrator, licensee, or child-care staff member shall discriminate in the enrollment of children in a child day-care center upon the basis of race, color, religion, sex, or national origin.

Sec. 5104.10. No employer shall discharge, demote, suspend, or threaten to discharge, demote, suspend, or in any manner discriminate against any employee based solely on the employee taking any of the following actions:

(A) Making any good faith oral or written complaint to the director of ~~human~~ job and family services or other agency responsible for enforcing Chapter 5104. of the Revised Code regarding a violation of this chapter or the rules adopted pursuant to Chapter 5104. of the Revised Code;

(B) Instituting or causing to be instituted any proceeding against the employer under section 5104.04 of the Revised Code;

(C) Acting as a witness in any proceeding under section 5104.04 of the Revised Code;

(D) Refusing to perform work that constitutes a violation of Chapter 5104., or the rules adopted pursuant to Chapter 5104. of the Revised Code.

Sec. 5104.11. (A) Except as provided in division (G)(1) of section 5104.011 of the Revised Code, after receipt of an application for certification from a type B family day-care home, the county director of ~~human~~ job and family services shall inspect. If it complies with this chapter and any applicable rules adopted under this chapter, the county department shall certify the type B family day-care home to provide publicly funded child day-care pursuant to this chapter and any rules adopted under it. The director of ~~human~~ job and family services or a county director of ~~human~~ job and family services may contract with a government entity or a private nonprofit entity for that entity to inspect and certify type B family day-care

homes pursuant to this section. The county department of ~~human~~ job and family services, government entity, or nonprofit entity shall conduct the inspection prior to the issuance of a certificate for the type B home and, as part of that inspection, shall ensure that the type B home is safe and sanitary. An authorized provider of a type B family day-care home that receives a certificate pursuant to this section to provide publicly funded child day-care is an independent contractor and is not an employee of the county department of ~~human~~ job and family services that issues the certificate.

(B) Every person desiring to receive certification for a type B family day-care home shall apply for certification to the county director of ~~human~~ job and family services on such forms as the director of ~~human~~ job and family services prescribes. The county director shall provide at no charge to each applicant a copy of rules for certifying type B family day-care homes adopted pursuant to this chapter.

(C) If the county director of ~~human~~ job and family services determines that the type B family day-care home complies with this chapter and any rules adopted under it, the county director shall issue to the provider a certificate to provide publicly funded child day-care for twelve months. The county director may revoke the certificate after determining that revocation is necessary. The authorized provider shall post the certificate in a conspicuous place in the certified type B home that is accessible to parents, custodians, or guardians at all times. The certificate shall state the name and address of the authorized provider, the maximum number of children who may be cared for at any one time in the certified type B home, the expiration date of the certification, and the name and telephone number of the county director who issued the certificate.

(D) The county director shall inspect every certified type B family day-care home at least twice within each twelve-month period of the operation of the certified type B home. A minimum of one inspection shall be unannounced and all inspections may be unannounced. Upon receipt of a complaint, the county director shall investigate and may inspect the certified type B home. The authorized provider shall permit the county director to inspect any part of the certified type B home. The county director shall prepare a written inspection report and furnish one copy to the authorized provider within a reasonable time after the inspection.

(E) The county director of ~~human~~ job and family services, in accordance with rules adopted pursuant to section 5104.052 of the Revised Code regarding fire safety and fire prevention, shall inspect each type B home that applies to be certified that is providing or is to provide publicly funded child day-care.

(F) All materials that are supplied by the department of ~~human~~ job and family services to type A family day-care home providers, type B family day-care home providers, in-home aides, persons who desire to be type A family day-care home providers, type B family day-care home providers, or in-home aides, and caretaker parents shall be written at no higher than the sixth grade reading level. The department may employ a readability expert to verify its compliance with this division.

Sec. 5104.12. (A) The county director of ~~human~~ job and family services may certify in-home aides to provide publicly funded child day-care pursuant to this chapter and any rules adopted under it. Any in-home aide who receives a certificate pursuant to this section to provide publicly funded child day-care is an independent contractor and is not an employee of the county department of ~~human~~ job and family services that issues the certificate.

(B) Every person desiring to receive certification as an in-home aide shall apply for certification to the county director of ~~human~~ job and family services on such forms as the director of ~~human~~ job and family services prescribes. The county director shall provide at no charge to each applicant a copy of rules for certifying in-home aides adopted pursuant to this chapter.

(C) If the county director of ~~human~~ job and family services determines that public funds are available and that the person complies with this chapter and any rules adopted under it, ~~he~~ the county director shall certify the person as an in-home aide and issue the person a certificate to provide publicly funded child day-care for twelve months. The county director may revoke the certificate ~~when he determines~~ after determining that revocation is necessary. The county director shall furnish a copy of the certificate to the parent, custodian, or guardian. The certificate shall state the name and address of the in-home aide, the expiration date of the certification, and the name and telephone number of the county director who issued the certificate.

(D) The county director of ~~human~~ job and family services shall inspect every home of a child who is receiving publicly funded child day-care in the child's own home while the in-home aide is providing the services. Inspections may be unannounced. Upon receipt of a complaint, the county director shall investigate the in-home aide and shall investigate and may inspect the home of a child who is receiving publicly funded child day-care in the child's own home. The caretaker parent shall permit the county director to inspect any part of the child's home. The county director shall prepare a written inspection report and furnish one copy each to the in-home aide and the caretaker parent within a reasonable time after the inspection.

Sec. 5104.13. No later than July 1, 1998, and at reasonable intervals thereafter, the department of ~~human~~ job and family services shall publish a guide describing state statutes and rules governing the certification of type B family day-care homes. The department shall distribute the guide to county departments of ~~human~~ job and family services in sufficient number that a copy is available to each type B home provider.

Sec. 5104.21. (A) The department of ~~human~~ job and family services shall register child day camps and enforce this section and section 5104.22 of the Revised Code and the rules adopted pursuant to those sections. No person, firm, organization, institution, or agency shall operate a child day camp without annually registering with the department.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the provisions of this section and section 5104.22 of the Revised Code:

(1) A child day camp that operates for two or less consecutive weeks and for no more than a total of two weeks during each calendar year;

(2) Supervised training, instruction, or activities of children that is conducted on an organized or periodic basis no more than one day a week and for no more than six hours' duration and that is conducted in specific areas, including, but not limited to, art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject;

(3) Programs in which the department determines that at least one parent, custodian, or guardian of each child attending or participating in the child day camp is on the child day camp activity site and is readily accessible at all times, except that a child day camp on the premises of a parent's, custodian's, or guardian's place of employment shall be registered in accordance with division (A) of this section;

(4) Child day camps funded and regulated or operated and regulated by any state department, other than the department of ~~human~~ job and family services, when the department of ~~human~~ job and family services has determined that the rules governing the child day camp are equivalent to or exceed the rules adopted pursuant to this section and section 5104.22 of the Revised Code.

(C) A person, firm, organization, institution, or agency operating a child day camp that is exempt under division (B) of this section from registering under division (A) of this section may elect to register itself under division (A) of this section. All requirements of this section and the rules adopted pursuant to this section shall apply to any exempt child day camp that so elects to register.

(D) The ~~department~~ director of job and family services shall adopt pursuant to Chapter 119. of the Revised Code rules prescribing the registration form and establishing the procedure for the child day camps to register. The form shall not be longer than one typewritten page and shall state both of the following:

(1) That the child day camp administrator or ~~his~~ the administrator's representative agrees to provide the parents of each school child who attends or participates in that child day camp with the telephone number of the county department of health and the public children services agency of the county in which the child day camp is located;

(2) That the child day camp administrator or ~~his~~ the administrator's representative agrees to permit a public children services agency or the county department of health to review or inspect the child day camp if a complaint is made to that department or any other state department or public children services agency against that child day camp.

(E) The department may charge a fee to register a child day camp. The fee for each child day camp shall be twenty-five dollars. No organization that operates, or owner of, child day camps shall pay a fee that exceeds two hundred fifty dollars for all of its child day camps.

(F) If a child day camp that is required to register under this section fails to register with the department in accordance with this section or the rules adopted pursuant to it or if a child day camp that files a registration form under this section knowingly provides false or misleading information on the registration form, the department shall require the child day camp to register or register correctly and to pay a registration fee that equals three times the registration fee as set forth in division (E) of this section.

(G) A child day camp administrator or ~~his~~ the administrator's representative shall provide the parents of each school child who attends or participates in that child day camp with the telephone numbers of the county department of health and the county public children services agency of the county in which the child day camp is located and a statement that the parents may use these telephone numbers to contact or otherwise contact the departments or agency to make a complaint regarding the child day camp.

Sec. 5104.22. (A) The ~~department~~ director of ~~human~~ job and family services, no later than September 1, 1993, and pursuant to Chapter 119. of the Revised Code, shall adopt rules establishing a procedure and standards for the approval of child day camps that will enable an approved child day camp to receive public moneys pursuant to sections 5104.30 to 5104.39 of the Revised Code. The procedure and standards shall be similar and comparable to the procedure and standards for accrediting child day camps

used by the American camping association. The department of job and family services may charge a reasonable fee to inspect a child day camp to determine whether that child day camp meets the standards set forth in this section or in the rules adopted under this section. The department shall approve any child day camp that the department inspects and approves, that the American camping association inspects and accredits, or that is inspected and accredited by any nationally recognized organization that accredits child day camps by using standards that the department ~~of human services~~ has determined are substantially similar and comparable to those of the American camping association. The department shall approve a child day camp for no longer than two years and shall inspect an approved child day camp no less than biennially.

(B) An approved child day camp shall comply with this section and section 5104.21 of the Revised Code and the rules adopted pursuant to those sections. If an approved child day camp is not in substantial compliance with those sections or rules at any time, the department shall terminate the child day camp's approval until the child day camp complies with those sections and rules or for a period of two years, whichever period is longer.

Sec. 5104.30. (A) The department of ~~human~~ job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following:

(1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child day-care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child day-care, if the director of ~~human~~ job and family

ces determines that the application is necessary. For purposes of this section, the department of ~~human~~ job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child day-care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child day-care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child day-care.

(B) The department of ~~human~~ job and family services shall distribute state and federal funds for publicly funded child day-care, including appropriations of state funds for publicly funded child day-care and appropriations of federal funds for publicly funded child day-care under Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended, and the child care block grant act. The department may use any state funds appropriated for publicly funded child day-care as the state share required to match any federal funds appropriated for publicly funded child day-care.

(C) The department may use federal funds available under the child care block grant act to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child day-care.

Not more than five per cent of the aggregate amount of those federal funds received for a fiscal year may be expended for administrative costs. The department shall allocate and use at least four per cent of the federal funds for the following:

(1) Activities designed to provide comprehensive consumer education to parents and the public;

(2) Activities that increase parental choice;

(3) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care.

(D) The department shall ensure that any federal funds received by the state under the child care block grant act will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of that act for publicly funded child day-care and related programs. A county department of ~~human~~ job and family services may purchase child day-care from funds obtained through any other means.

(E) The department shall encourage the development of suitable child day-care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child day-care designed to accommodate the special needs of migrant workers. On request,

the department, through its employees or contracts with state or community child day-care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child day-care. The department of ~~human~~ job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of ~~human~~ job and family services to fulfill its duties and responsibilities under this chapter.

The department may develop and maintain a registry of persons providing child day-care ~~and~~. The director may adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for ~~its~~ the registry's administration.

(F) The ~~department~~ director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for determining rates of reimbursement and a procedure for paying providers of publicly funded child day-care. In establishing rates of reimbursement pursuant to this division, the ~~department~~ director shall use the information obtained under division (B)(3) of section 5104.04 of the Revised Code and may establish different rates of reimbursement based on the geographic location of the provider, type of care provided, age of the child served, special needs of the child, whether expanded hours of service are provided, whether weekend service is provided, whether the provider has exceeded the minimum requirements of state statutes and rules governing child day-care, and any other factors the ~~department~~ director considers appropriate. The ~~department~~ director shall establish an enhanced rate of reimbursement for providers who provide child day-care for caretaker parents who work nontraditional hours. For a type B family day-care home that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, the department shall adopt rules establishing a reimbursement rate that is the greater of the rate that was in effect for the home on October 1, 1997, or seventy-five per cent of the reimbursement rate that applies to a type B family day-care home certified by the same county department of ~~human~~ job and family services pursuant to section 5104.11 of the Revised Code.

Sec. 5104.301. A county department of ~~human~~ job and family services may establish a program to encourage the organization of parent cooperative child day-care centers and parent cooperative type A family day-care homes for recipients of publicly funded child day-care. A program established under this section may include any of the following:

(A) Recruitment of parents interested in organizing a parent cooperative child day-care center or parent cooperative type A family day-care home;

(B) Provision of technical assistance in organizing a parent cooperative child day-care center or parent cooperative type A family day-care home;

(C) Assistance in the developing, conducting, and disseminating training for parents interested in organizing a parent cooperative child day-care center or parent cooperative type A family day-care home.

A county department that implements a program under this section shall receive from funds available under the child care block grant act a five thousand dollar incentive payment for each parent cooperative child day-care center or parent cooperative type A family day-care home organized pursuant to this section.

Parents of children enrolled in a parent cooperative child day-care center or parent cooperative type A family day-care home pursuant to this section shall be required to work in the center or home a minimum of four hours per week.

The ~~department~~ director of ~~human~~ job and family services shall adopt rules governing the establishment and operation of programs under this section.

Sec. 5104.31. Publicly funded child day-care may be provided only by the following:

(A) A child day-care center or type A family day-care home, including a parent cooperative child day-care center or parent cooperative type A family day-care home, licensed by the department of ~~human~~ job and family services pursuant to section 5104.03 of the Revised Code;

(B) A type B family day-care home certified by the county department of ~~human~~ job and family services pursuant to section 5104.11 of the Revised Code;

(C) A type B family day-care home that has received a limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code;

(D) An in-home aide who has been certified by the county department of ~~human~~ job and family services pursuant to section 5104.12 of the Revised Code;

(E) A child day camp approved pursuant to section 5104.22 of the Revised Code;

(F) A licensed preschool program;

(G) A licensed school child program;

(H) A border state child day-care provider, except that a border state child day-care provider may provide publicly funded child day-care only to

an individual who resides in an Ohio county that borders the state in which the provider is located.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child day-care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider and the county department of ~~human~~ job and family services. A county department of ~~human~~ job and family services may enter into a contract with a provider for publicly funded child day-care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child day-care shall be contingent upon the availability of state and federal funds. The department of ~~human~~ job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child day-care, regardless of the source of public funds used to purchase the child day-care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child day-care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child day-care shall specify at least the following:

(1) Except as provided in division (B)(2) of this section, that the provider of publicly funded child day-care agrees to be paid for rendering services at the lower of the rate customarily charged by the provider for children enrolled for child day-care or the rate of reimbursement established pursuant to section 5104.30 of the Revised Code;

(2) If the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, that the provider is to be paid for rendering services to those caretaker parents at the rate of reimbursement established pursuant to section 5104.30 of the Revised Code regardless of whether that rate is higher than the rate the provider customarily charges for children enrolled for child day-care;

(3) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child

day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(4) Whether the county department of ~~human~~ job and family services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(5) That the provider, other than a border state child day-care provider, shall continue to be licensed, approved, or certified pursuant to this chapter or sections 3301.52 to 3301.59 of the Revised Code and shall comply with all standards and other requirements in this chapter and those sections and in rules adopted pursuant to this chapter or those sections for maintaining the provider's license, approval, or certification;

(6) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(7) Whether the provider will be paid by the county department of ~~human~~ job and family services or the state department of ~~human~~ job and family services;

(8) That the contract is subject to the availability of state and federal funds;

~~(8)~~(9) That, for each six-month period the provider provides publicly funded child day-care to a child, the provider will be paid for up to ten days, or, at the option of the county department, a greater number of days, the provider would have provided the child publicly funded child day-care had the child been present.

(C) Unless specifically prohibited by federal law, the county department of ~~human~~ job and family services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these

certificates for payment for reimbursement in accordance with rules that the ~~department~~ director of ~~human~~ job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lower of the rate customarily charged by the provider or the rate of reimbursement established pursuant to section 5104.30 of the Revised Code, unless the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, in which case the value of the certificate for payment for the services to those caretaker parents shall be based on the rate of reimbursement established pursuant to that section regardless of whether that rate is higher than the rate customarily charged by the provider. The county department may provide the certificates for payment to the individuals or may contract with child day-care providers or child day-care resource and referral service organizations that make determinations of eligibility for publicly funded child day-care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates for payment to individuals whom they determine are eligible for publicly funded child day-care.

For each six-month period a provider of publicly funded child day-care provides publicly funded child day-care to the child of an individual given certificates of payment, the individual shall provide the provider certificates for days the provider would have provided publicly funded child day-care to the child had the child been present. County departments shall specify the maximum number of days providers will be provided certificates of payment for days the provider would have provided publicly funded child day-care had the child been present. The maximum number of days shall be at least ten.

Sec. 5104.33. (A) The department of ~~human~~ job and family services shall prescribe an application form for use in making eligibility determinations for publicly funded child day-care. The form shall be as brief and simple as practicable.

(B) In administering the process of applying for publicly funded child day-care, the county department of ~~human~~ job and family services shall implement policies designed to ensure that the application process is as accessible to the public as possible. These policies shall include making the application forms available at appropriate locations selected by the county department and making arrangements that enable applicants to complete the application process at times outside their normal working hours, and at locations, convenient for them. The arrangements may include stationing

certain of their employees at various sites in the county for the purpose of assisting applicants in completing the application process and of making eligibility determinations at those locations. The arrangements may also include providing training and technical assistance to appropriate entities that qualify them to provide assistance in completing the application process and, to the extent permitted by federal law, to make eligibility determinations.

Each county department of ~~human~~ job and family services shall submit to the ~~state~~ department of ~~human~~ job and family services for approval its plan for ensuring that the application process is as accessible to the public as possible and complies with this division. The county department shall make any changes to its plan that the ~~state~~ department determines are necessary for compliance with this division and with any state standards adopted for the administration of this division.

Sec. 5104.34. (A)(1) Each county department of ~~human~~ job and family services shall implement procedures for making determinations of eligibility for publicly funded child day-care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child day-care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of ~~human~~ job and family services in accordance with section 5101.35 of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child day-care, may contract with child day-care providers or child day-care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child day-care providers or child day-care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child day-care provider or a child day-care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral organization receives a completed application that is the basis of the

determination and to collect and transmit all necessary information to the county department within a period of time that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child day-care and to make eligibility determinations. The county department, child day-care provider, and child day-care resource and referral service organization shall make each determination of eligibility for publicly funded child day-care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section 5104.38 of the Revised Code, and shall notify promptly each applicant for publicly funded child day-care of the results of the determination of the applicant's eligibility.

~~On or before October 1, 1991, the department~~ The director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of ~~human~~ job and family services and shall direct any entity that is not in compliance with this division or any rule adopted under this division to implement corrective action specified by the department.

(2) All eligibility determinations for publicly funded child day-care shall be made in accordance with rules adopted ~~by the department of human services~~ pursuant to division (A) of section 5104.38 of the Revised Code and, if a county department of ~~human~~ job and family services specifies, pursuant to rules adopted under division (B) of that section, a maximum amount of income a family may have to be eligible for publicly funded child day-care, the income maximum specified by the county department. Publicly funded child day-care may be provided only to eligible infants, toddlers, preschool children, and school children under age thirteen. For an applicant to be eligible for publicly funded child day-care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child day-care. This restriction does not apply to families whose children are eligible for protective or special needs day-care.

Subject to available funds, a county department of ~~human~~ job and family services shall allow a family to receive publicly funded child

day-care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child day-care is subject to available funds unless the family is receiving child day-care pursuant to division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the county department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child day-care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child day-care in the previous month but is no longer eligible because the twelve-month period has expired. Such an assistance group shall continue to receive priority for publicly funded child day-care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child day-care at any time during the immediately following twelve-month period that both of the following apply:

(a) The assistance group requires child day-care due to employment;

(b) The assistance group's income is not more than one hundred fifty per cent of the federal poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child day-care.

(B) To the extent permitted by federal law, a county department of ~~human~~ job and family services may require a caretaker parent determined to be eligible for publicly funded child day-care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. Each county department shall make protective day-care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child day-care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training.

(D) If a county department of ~~human~~ job and family services determines that available resources are not sufficient to provide publicly funded child day-care to all eligible families who request it, the county department may establish a waiting list. A county department may establish separate waiting lists within the waiting list based on income. When resources become available to provide publicly funded child day-care to families on the waiting list, a county department that establishes a waiting list shall assess

he needs of the next family scheduled to receive publicly funded child day-care. If the assessment demonstrates that the family continues to need and is eligible for publicly funded child day-care, the county department shall offer it to the family. If the county department determines that the family is no longer eligible or no longer needs publicly funded child day-care, the county department shall remove the family from the waiting list.

(E) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of ~~human~~ job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child day-care is valid for one year;

(2) A fee charged under division (B) of section 5104.34 of the Revised Code shall not be changed during the one-year period, unless a caretaker parent requests that the fee be reduced due to changes in income, family size, or both and the county department of ~~human~~ job and family services approves the reduction.

(B) Division (A) of this section does not apply in either of the following circumstances:

(1) The publicly funded child day-care is provided under division (B)(4) of section 5104.35 of the Revised Code;

(2) The recipient of the publicly funded child day-care ceases to be eligible for publicly funded child day-care.

Sec. 5104.35. (A) The county department of ~~human~~ job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested

uals and groups on request;

(3) Inform clients of the availability of child day-care services;

(4) Pay to a child day-care center, type A family day-care home, certified type B family day-care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider for child day-care services, the amount provided for in division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the county department pays.

(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of ~~human~~ job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child day-care.

(B) The county department of ~~human~~ job and family services may do any of the following:

(1) To the extent permitted by federal law, use public child day-care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child day-care;

(2) In accordance with rules adopted by the ~~state department~~ director of ~~human~~ job and family services, request a waiver of the maximum rate of assistance that is established ~~by the state department of human services~~ pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child day-care based upon the special needs of a child, the special circumstances of a family, or unique child day-care market conditions;

(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child day-care customarily charges all children who receive child day-care from that provider;

(4) To the extent permitted by federal law, pay for up to thirty days of child day-care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period.

Sec. 5104.36. The licensee or administrator of a child day-care center or type A family day-care home, the authorized provider of a certified type B family day-care home, an in-home aide providing child day-care services,

the director or administrator of an approved child day camp, and a border state child day-care provider shall keep a record for each eligible child, to be made available to the county department of ~~human~~ job and family services or the department of ~~human~~ job and family services on request. The record shall include all of the following:

(A) The name and date of birth of the child;

(B) The name and address of the child's caretaker parent;

(C) The name and address of the caretaker parent's place of employment or program of education or training;

(D) The hours for which child day-care services have been provided for the child;

(E) Any other information required by the county department of ~~human~~ job and family services or the state department of ~~human~~ job and family services.

Sec. 5104.37. The department of ~~human~~ job and family services and a county department of ~~human~~ job and family services may withhold any money due, and recover through any appropriate method any money erroneously paid, under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it.

Sec. 5104.38. In addition to any other rules adopted under this chapter, the ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child day-care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child day-care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective day-care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. Until July 1, 2000, the maximum amount shall not exceed one hundred eighty-five per cent of the federal poverty line. Effective July 1, 2000, the maximum amount shall not exceed two hundred per cent of the federal poverty line.

(B) Procedures under which a county department of ~~human~~ job and family services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child day-care that is less than the maximum amount specified in that division, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child day-care that is higher than

the amount specified by the department but does not exceed the maximum amount specified in division (A) of this section;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child day-care according to income and family size, which shall be uniform for all types of publicly funded child day-care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child day-care from that provider. The schedule of fees may not provide for a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income.

(D) A formula based upon a percentage of the county's total expenditures for publicly funded child day-care for determining the maximum amount of state and federal funds appropriated for publicly funded child day-care that a county department may use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child day-care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child day-care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child day-care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child day-care;

(H) Procedures for establishing a child day-care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division (II)(1) of section 5104.01 of the Revised Code;

(K) Procedures for a county department of ~~human~~ job and family services to follow in making eligibility determinations and redeterminations for publicly funded child day-care available through telephone, computer, and other means at locations other than the county department;

(L) Any other rules necessary to carry out sections 5104.30 to 5104.39 of the Revised Code.

Sec. 5104.39. (A) The ~~state department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures of

county departments of ~~human~~ job and family services to ensure that expenditures do not exceed the available federal and state funds for publicly funded child day-care. The ~~state~~ department, with the assistance of the office of budget and management and the day-care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures of county departments for publicly funded child day-care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child day-care. Whenever the ~~state~~ department determines that the anticipated future expenditures of the county departments will exceed the available federal and state funds for publicly funded child day-care, it promptly shall notify the county departments and, before the available state and federal funds are used, the director ~~of human services~~ shall issue and implement an administrative order that shall specify both of the following:

(1) Priorities for expending the remaining available federal and state funds for publicly funded child day-care;

(2) Instructions and procedures to be used by the county departments.

The order may suspend enrollment of all new participants in any program of publicly funded child day-care or may limit enrollment of new participants to those with incomes at or below a specified percentage below the federal poverty line, but it shall not limit enrollment by otherwise narrowing eligibility standards established in statute for publicly funded child day-care.

Each county department shall comply with the order no later than thirty days after it is issued. If the ~~state~~ department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child day-care are used, the state department shall provide sufficient funds to the county departments for publicly funded child day-care to enable each county department to pay for all publicly funded child day-care that was provided by providers pursuant to contract prior to the date that the county department received notice under this division and the state department implemented in that county the priorities.

If after issuing an order under this division to suspend or limit enrollment of new participants the ~~state~~ department determines that available state and federal funds for publicly funded child day-care exceed the anticipated future expenditures of the county departments, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county

departments. Each county department shall comply with the order not later than thirty days after it is issued.

(B) The ~~state~~ department of ~~human~~ job and family services shall do all of the following:

(1) Conduct a quarterly evaluation of the program of publicly funded child day-care that is operated pursuant to sections 5104.30 to 5104.39 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5104.40. A county department of ~~human~~ job and family services shall not be held responsible for implementing any rule adopted under this chapter regarding publicly funded child day-care until the later of thirty days after the effective date of the rule or thirty days after the county department receives notice of the rule if such notification is required under this chapter.

Sec. 5104.41. A child and ~~his~~ the child's caretaker who either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of ~~human~~ job and family services to be homeless, and who are otherwise ineligible for publicly funded child day-care, are eligible for protective day-care for the lesser of the following:

(A) Ninety days;

(B) The period of time they reside in the shelter, if they qualified for protective day-care because they reside in the shelter, or the period of time in which the county department determines they are homeless.

Sec. 5104.42. The ~~state department~~ director of ~~human~~ job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child day-care. The rules may provide that the ~~state~~ department of job and family services will either reimburse county departments of ~~human~~ job and fmaily services for payments made to providers of publicly funded child day-care or make direct payments to providers pursuant to an agreement entered into with a county board of commissioners pursuant to section 5101.21 of the Revised Code.

Alternately, the ~~state department~~ director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating among the county departments the state and federal funds appropriated for all publicly funded child day-care services. If the ~~state~~ department chooses to allocate funds for publicly funded child day-care, it

may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county day-care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the ~~state~~ department may determine which county expenditures for day-care services are allowable for use of ~~state~~ and federal funds.

The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child day-care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.

Sec. 5104.43. Each county department of ~~human~~ job and family services shall deposit all funds received from any source for child day-care services into the public assistance fund established under section 5101.161 of the Revised Code. All expenditures by a county department for publicly funded child day-care shall be made from the public assistance fund.

Sec. 5104.44. On receipt of a notice pursuant to section 2301.373 of the Revised Code, the department of ~~human~~ job and family services shall comply with that section with respect to a license or certificate issued pursuant to this chapter.

Sec. 5107.03. There is hereby established the Ohio works first program. The department of ~~human~~ job and family services shall administer the program, as long as federal funds are provided for the program, in accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and federal waivers granted by the United States secretary.

The department shall make all cash assistance payments for Ohio works first from funds appropriated for the Ohio works first program. A county department of ~~human~~ job and family services may use county funds to increase the amount of cash assistance an assistance group receives. An increase in the amount of cash assistance that results from such a use of county funds shall not be included as countable income, gross earned income, or gross unearned income of the assistance group.

Sec. 5107.05. The ~~department~~ director of ~~human~~ job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human

services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of ~~human~~ job and family services shall be adopted in accordance with section 111.15 of the Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations;

(2) The method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition. The rules regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of ~~human~~ job and family services of additional income not previously reported to the county department;

(6) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code;

(7) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate. The rule shall be consistent with 42 U.S.C.A. 654(29).

(8) The administration of the LEAP program provided for under section 5107.30 of the Revised Code;

(9) ~~circumstances~~ Circumstances under which a county department of ~~human~~ job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code. Circumstances shall include that a school or place of work is

closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation.

(10) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code.

(B) The rules may provide that a county department of ~~human~~ job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment that is below an amount the department specifies.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Gross income" means gross earned income and gross unearned income.

(3) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who

receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;

(d) A woman at least six months pregnant.

(2) The assistance group must meet the income requirements established by division (D) of this section.

(3) No member of the assistance group may be involved in a strike.

(4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and sections 5101.19, 5101.58, 5101.59, and 5101.83 of the Revised Code.

(5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code.

(D)(1) Except as provided in division (D)(3) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of ~~human~~ job and family services shall do the following:

(a) Determine whether the assistance group's gross income exceeds the following amount:

Size of Assistance Group	Gross Income
1	$423
2	$537
3	$630
4	$750
5	$858
6	$942
7	$1,038
8	$1,139
9	$1,241
10	$1,343
11	$1,440
12	$1,542
13	$1,643
14	$1,742
15	$1,844

For each person in the assistance group that brings the assistance group to more than fifteen persons, add one hundred two dollars to the amount of

gross income for an assistance group of fifteen specified in division (D)(1)(a) of this section.

In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds the amount specified in division (D)(1)(a) of this section.

(b) If the assistance group's gross income, less the amounts disregarded pursuant to division (D)(1)(a) of this section, does not exceed the amount specified in that division, determine whether the assistance group's countable income is less than the payment standard. The assistance group is ineligible to participate in Ohio works first if the assistance group's countable income equals or exceeds the payment standard.

(2) To determine whether an assistance group participating in Ohio works first continues to be eligible to participate, a county department of ~~human~~ job and family services shall determine whether the assistance group's countable income continues to be less than the payment standard. In making this determination, the county department shall disregard the first two hundred fifty dollars and fifty per cent of the remainder of the assistance group's gross earned income. No amounts shall be disregarded from the assistance group's gross unearned income. The assistance group ceases to be eligible to participate in Ohio works first if its countable income, less the amounts disregarded, equals or exceeds the payment standard.

(3) If an assistance group reapplies to participate in Ohio works first not more than four months after ceasing to participate, a county department of ~~human~~ job and family services shall use the income requirement established by division (D)(2) of this section to determine eligibility for resumed participation rather than the income requirement established by division (D)(1) of this section.

(E)(1) An assistance group may continue to participate in Ohio works first even though a public children services agency removes the assistance group's minor children from the assistance group's home due to abuse, neglect, or dependency if the agency does both of the following:

(a) Notifies the county department of ~~human~~ job and family services at the time the agency removes the children that it believes the children will be able to return to the assistance group within six months;

(b) Informs the county department at the end of each of the first five months after the agency removes the children that the parent, guardian, custodian, or specified relative of the children is cooperating with the case

plans prepared for the children under section 2151.412 of the Revised Code and that the agency is making reasonable efforts to return the children to the assistance group.

(2) An assistance group may continue to participate in Ohio works first pursuant to division (E)(1) of this section for not more than six payment months. This division does not affect the eligibility of an assistance group that includes a woman at least six months pregnant.

Sec. 5107.12. An assistance group seeking to participate in the Ohio works first program shall apply to a county department of ~~human~~ job and family services using an application containing information the ~~state department~~ director of ~~human~~ job and family services requires pursuant to rules adopted under section 5107.05 of the Revised Code and any additional information the county department requires. If cash assistance under the program is to be paid by the auditor of state through the medium of direct deposit as provided by section 329.03 of the Revised Code, the application shall be accompanied by information the auditor needs to make direct deposits.

When a county department receives an application for participation in Ohio works first, it shall promptly make an investigation and record of the circumstances of the applicant in order to ascertain the facts surrounding the application and to obtain such other information as may be required. Upon the completion of the investigation, the county department shall determine whether the applicant is eligible to participate, the amount of cash assistance the applicant should receive, and the approximate date when participation shall begin. The amount of cash assistance so determined shall be certified to the ~~state~~ department of job and family services in such form as the department shall prescribe. Warrants, direct deposits, or debit cards shall be delivered or made payable in the manner the ~~state~~ department may prescribe.

To the extent required by rules adopted under section 5107.05 of the Revised Code, a participant of Ohio works first shall notify the county department immediately upon the receipt or possession of additional income not previously reported to the county department. Any failure to so notify a county department shall be regarded as prima-facie evidence of an intent to defraud.

Sec. 5107.14. An assistance group is ineligible to participate in Ohio works first unless the minor head of household or each adult member of the assistance group, not later than thirty days after applying for or undergoing a redetermination of eligibility for the program, enters into a written self-sufficiency contract with the county department of ~~human~~ job and

family services. The contract shall set forth the rights and responsibilities of the assistance group as applicants for and participants of the program, including work responsibilities established under sections 5107.40 to 5107.69 of the Revised Code and other requirements designed to assist the assistance group in achieving self sufficiency and personal responsibility. The county department shall provide without charge a copy of the contract to each assistance group member who signs it.

Each self-sufficiency contract shall include, based on appraisals conducted under section 5107.41 of the Revised Code and assessments conducted under section 5107.70 of the Revised Code, the following:

(A) The assistance group's plan, developed under section 5107.41 of the Revised Code, to achieve the goal of self sufficiency and personal responsibility through unsubsidized employment within the time limit for participating in Ohio works first established by section 5107.18 of the Revised Code;

(B) Work activities, developmental activities, and alternative work activities to which members of the assistance group are assigned under sections 5107.40 to 5107.69 of the Revised Code;

(C) The responsibility of a caretaker member of the assistance group to cooperate in establishing a minor child's paternity and establishing, modifying, and enforcing a support order for the child in accordance with section 5107.22 of the Revised Code;

(D) Other responsibilities that members of the assistance group must satisfy to participate in Ohio works first and the consequences for failure or refusal to satisfy the responsibilities;

(E) An agreement that the assistance group will comply with the conditions of participating in Ohio works first established by this chapter and sections 5101.19, 5101.58, 5101.59, and 5101.83 of the Revised Code;

(F) Assistance and services the county department will provide to the assistance group;

(G) Assistance and services the child support enforcement agency and public children services agency will provide to the assistance group pursuant to a plan of cooperation entered into under section 307.983 of the Revised Code;

(H) Other provisions designed to assist the assistance group in achieving self sufficiency and personal responsibility;

(I) Procedures for assessing whether responsibilities are being satisfied and whether the contract should be amended;

(J) Procedures for amending the contract.

Sec. 5107.16. (A) If a member of an assistance group fails or refuses,

without good cause, to comply in full with a provision of a self-sufficiency contract entered into under section 5107.14 of the Revised Code, a county department of ~~human~~ job and family services shall sanction the assistance group as follows:

(1) For a first failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for one payment month or until the failure or refusal ceases, whichever is longer;

(2) For a second failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for three payment months or until the failure or refusal ceases, whichever is longer;

(3) For a third or subsequent failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for six payment months or until the failure or refusal ceases, whichever is longer.

(B) Each county department of ~~human~~ job and family services shall establish standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract.

(1) In the case of a failure or refusal to participate in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code, good cause shall include, except as provided in division (B)(2) of this section, the following:

(a) Failure of the county department to place the member in an activity;

(b) Failure of the county department to provide for the assistance group to receive support services the county department determines under section 5107.66 of the Revised Code to be necessary. In determining whether good cause exists, a county department shall determine that day care is a necessary support service if a single custodial parent caring for a minor child under age six proves a demonstrated inability, as determined by the county department, to obtain needed child care for one or more of the following reasons:

(i) Unavailability of appropriate child care within a reasonable distance from the parent's home or work site;

(ii) Unavailability or unsuitability of informal child care by a relative or under other arrangements;

(iii) Unavailability of appropriate and affordable formal child care arrangements.

(2) Good cause does not exist if the member of the assistance group is placed in a work activity established under section 5107.58 of the Revised

Code and exhausts the support services available for that activity.

(C) When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding a sanction under this section, the hearing officer, director of ~~human~~ job and family services, or director's designee shall base the decision in the hearing or appeal on the county department's standards of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract, if the county department provides the hearing officer, director, or director's designee a copy of the county department's good cause standards.

(D) After sanctioning an assistance group under division (A) of this section, a county department of ~~human~~ job and family services shall continue to work with the assistance group to provide the member of the assistance group who caused the sanction an opportunity to demonstrate to the county department a willingness to cease the failure or refusal to comply with the self-sufficiency contract.

(E) An adult eligible for medical assistance pursuant to division (A)(1)(a) of section 5111.01 of the Revised Code who is sanctioned under division (A)(3) of this section for a failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medical assistance unless the adult is otherwise eligible for medical assistance pursuant to another division of section 5111.01 of the Revised Code.

(F) An assistance group that would be participating in Ohio works first if not for a sanction under this section shall continue to be eligible for all of the following:

(1) Publicly funded child day-care in accordance with division (A)(3) of section 5104.30 of the Revised Code;

(2) Support services in accordance with section 5107.66 of the Revised Code;

(3) To the extent permitted by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as amended, to participate in work activities, developmental activities, and alternative work activities in accordance with sections 5107.40 to 5107.69 of the Revised Code.

Sec. 5107.161. Before a county department of ~~human~~ job and family services sanctions an assistance group under section 5107.16 of the Revised Code, the county department shall provide the assistance group written notice of the sanction. The written notice shall include a provision printed in bold type face that informs the assistance group that it may request a

-face meeting with the county department not later than ten days after receiving the written notice to explain why the assistance group believes it should not be sanctioned. The written notice shall include the telephone numbers of the assistance group's caseworker and of an Ohio works first ombudsperson provided for under section 329.07 of the Revised Code who the assistance group may call if unable to contact the caseworker and the toll-free telephone number of the state department of ~~human~~ job and family services.

Sec. 5107.162. If an assistance group requests a meeting with a county department of ~~human~~ job and family services not later than ten days after receiving under section 5107.161 of the Revised Code written notice of a sanction, the county department shall schedule the meeting and postpone imposition of the sanction until the date the meeting is scheduled to be held.

Sec. 5107.18. (A) Except as provided in divisions (B), (C), (D), and (E) of this section, an assistance group is ineligible to participate in Ohio works first if the assistance group includes an adult who has participated in the program for thirty-six months. The time limit applies regardless of whether the thirty-six months are consecutive.

(B) An assistance group that has ceased to participate in Ohio works first pursuant to division (A) of this section for at least twenty-four months may reapply to participate in the program if good cause exists as determined by the county department of ~~human~~ job and family services. Good cause may include losing employment, inability to find employment, divorce, domestic violence considerations, and unique personal circumstances. The assistance group must provide a county department of ~~human~~ job and family services verification acceptable to the county department of whether any members of the assistance group had employment during the period the assistance group was not participating in Ohio works first and the amount and sources of the assistance group's income during that period. If a county department is satisfied that good cause exists for the assistance group to reapply to participate in Ohio works first, the assistance group may reapply. Except as provided in divisions (C), (D), and (E) of this section, the assistance group may not participate in Ohio works first for more than twenty-four additional months. The time limit applies regardless of whether the twenty-four months are consecutive.

(C) In determining the number of months a parent or pregnant woman has received assistance under Title IV-A, a county department of ~~human~~ job and family services shall disregard any month during which the parent or pregnant woman was a minor child but was neither a minor head of household nor married to the head of an assistance group.

(D) In determining the number of months an adult has received assistance under Title IV-A, a county department of ~~human~~ job and family services shall disregard any month during which the adult lived on an Indian reservation or in an Alaska native village, as those terms are used in 42 U.S.C.A. 608(a)(7)(D), if, during the month, at least one thousand individuals lived on the reservation or in the village and at least fifty per cent of the adults living on the reservation or in the village were unemployed.

(E) A county department of ~~human~~ job and family services may exempt not more than twenty per cent of the average monthly number of Ohio works first participants from the time limit established by this section on the grounds that the county department determines that the time limit is a hardship. In the case of the time limit established by division (A) of this section, a county department may not exempt an assistance group until the group has exhausted its thirty-six months of cash assistance.

(F) The ~~state~~ department of ~~human~~ job and family services shall continually monitor the percentage of the average monthly number of Ohio works first participants in each county that is exempted under division (E) of this section from the time limit established by this section. On determining that the percentage in any county equals or exceeds eighteen per cent, the ~~state~~ department shall immediately notify the county department of ~~human~~ job and family services.

(G) Only participation in Ohio works first on or after October 1, 1997, applies to the time limit established by this section. The time limit applies regardless of the source of funding for the program. Assistance under Title IV-A provided by any state applies to the time limit. The time limit is a lifetime limit. No assistance group shall receive assistance under the program in violation of the time limit for assistance under Title IV-A established by section 408(a)(7) of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105, 42 U.S.C.A. 608(a)(7).

Sec. 5107.20. As used in this section, "support" has the same meaning as in section 3113.21 of the Revised Code.

Participation in Ohio works first constitutes an assignment to the department of ~~human~~ job and family services of any rights members of an assistance group have to support from any other person, excluding medical support assigned pursuant to section 5101.59 of the Revised Code. The rights to support assigned to the department pursuant to this section constitute an obligation of the person who is responsible for providing the support to the state for the amount of cash assistance provided to the

assistance group.

The division of child support in the department of ~~human~~ job and family services shall collect and distribute support payments owed to Ohio works first participants, whether assigned to the department or unassigned, in accordance with Title IV-D, federal regulations, state statutes, and rules adopted under section 5107.05 of the Revised Code.

In accordance with federal statutes and regulations, the department shall deposit support payments it receives pursuant to this section into the state treasury to the credit of the child support collections fund or the child support administrative fund, both of which are hereby created. Money credited to the funds shall be used to make cash assistance payments under Ohio works first.

Sec. 5107.22. As used in this section, "caretaker" means the parent of a minor child or a relative acting in the parent's place.

Unless good cause for failure or refusal exists as determined pursuant to rules adopted under section 5107.05 of the Revised Code, the caretaker of a minor child shall cooperate, if the caretaker is a member of the child's assistance group, in establishing the child's paternity and establishing, modifying, and enforcing a support order for the child. The child support enforcement agency with responsibility for administering the assistance group's paternity and support order requirements shall determine whether the caretaker is cooperating under this section. Cooperation includes providing sufficient information available to the caretaker to verify the identity of the minor child's father and establish, modify, and enforce a support order.

A child support enforcement agency shall notify the county department of ~~human~~ job and family services serving the county in which a caretaker resides if the agency determines that the caretaker has failed or refused to cooperate under this section without good cause and the caretaker is a member of an assistance group participating in Ohio works first.

Sec. 5107.24. (A) As used in this section:

(1) "Adult-supervised living arrangement" means a family setting approved, licensed, or certified by the department of ~~human~~ job and family services, the department of mental health, the department of mental retardation and developmental disabilities, the department of youth services, a public children services agency, a private child placing agency, or a private noncustodial agency that is maintained by a person age eighteen or older who assumes responsibility for the care and control of a minor parent, pregnant minor, or child of a minor parent or provides the minor parent, pregnant minor, or child of a minor parent supportive services, including

counseling, guidance, and supervision. "Adult-supervised living arrangement" does not mean a public institution.

(2) "Child of a minor parent" means a child born to a minor parent, except that the child ceases to be considered a child of a minor parent when the minor parent attains age eighteen.

(3) "Minor parent" means a parent who is under age eighteen and is not married.

(4) "Pregnant minor" means a pregnant person who is under age eighteen and not married.

(B)(1) Except as provided in division (B)(2) of this section and to the extent permitted by Title IV-A and federal regulations adopted under Title IV-A, a pregnant minor, minor parent, or child of a minor parent must reside in a place of residence maintained by a parent, guardian, custodian, or specified relative of the pregnant minor or minor parent as the parent's, guardian's, custodian's, or specified relative's own home to be eligible to participate in Ohio works first.

(2) To the extent permitted by Title IV-A and federal regulations adopted under it, a pregnant minor, minor parent, or child of a minor parent is exempt from the requirement of division (B)(1) of this section if any of the following apply:

(a) The minor parent or pregnant minor does not have a parent, guardian, custodian, or specified relative living or whose whereabouts are known.

(b) No parent, guardian, custodian, or specified relative of the minor parent or pregnant minor will allow the pregnant minor, minor parent, or minor parent's child to live in the parent's, guardian's, custodian's, or specified relative's home.

(c) The department of ~~human~~ job and family services, a county department of ~~human~~ job and family services, or a public children services agency determines that the physical or emotional health or safety of the pregnant minor, minor parent, or minor parent's child would be in jeopardy if the pregnant minor, minor parent, or minor parent's child lived in the same home as the parent, guardian, custodian, or specified relative.

(d) The department of ~~human~~ job and family services, a county department of ~~human~~ job and family services, or a public children services agency otherwise determines that it is in the best interest of the pregnant minor, minor parent, or minor parent's child to waive the requirement of division (B)(1) of this section.

(C) A pregnant minor, minor parent, or child of a minor parent exempt from the requirement of division (B)(1) of this section must reside in an

ult-supervised living arrangement to be eligible to participate in Ohio works first.

(D) The department of ~~human~~ job and family services, whenever possible and to the extent permitted by Title IV-A and federal regulations adopted under it, shall provide cash assistance under Ohio works first to the parent, guardian, custodian, or specified relative of a pregnant minor or minor parent on behalf of the pregnant minor, minor parent, or minor parent's child.

Sec. 5107.26. (A) As used in this section:

(1) "Transitional child day-care" means publicly funded child day-care provided under division (A)(3) of section 5104.34 of the Revised Code.

(2) "Transitional medicaid" means the medical assistance provided under section 5111.023 of the Revised Code.

(B) Except as provided in division (C) of this section, each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of ~~human~~ job and family services determines that a member of the assistance group terminated the member's employment and each person who, on the day prior to the day a recipient begins to receive transitional child day-care or transitional medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child day-care or transitional medicaid secured comparable or better employment or the county department of ~~human~~ job and family services certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:

(a) The wage is less than the federal minimum wage;

(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has

been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;

(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;

(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;

(5) A documented household emergency;

(6) Lack of adequate child care for children of the member or recipient who are under six years of age.

Sec. 5107.28. (A) As used in this section and in sections 5107.281 to 5107.287 of the Revised Code:

(1) "Cash assistance payment" means the monthly amount an assistance group is eligible to receive under Ohio works first.

(2) "Parent" means the parent, guardian, custodian, or specified relative with charge or care of a learnfare participant.

(3) "Participating student" means a participant of Ohio works first who is subject to the school attendance requirement of the learnfare program as determined under section 5107.281 of the Revised Code.

(B) The ~~state~~ department of ~~human~~ job and family services shall establish the learnfare program. The board of county commissioners of any county may choose to have the county participate in the learnfare program. The county department of ~~human~~ job and family services of each participating county shall administer the program in accordance with sections 5107.28 to 5107.287 of the Revised Code and policies the county department establishes for the program.

(C) The program shall provide for reduction in the cash assistance payment to the assistance group of a participating student if the student fails to comply with the program's school attendance requirement two or more times during a school year.

(D) The program may provide for an incentive to encourage a parent or, if a participating student is eighteen or nineteen years of age, the student to consent to the release of the participating student's school attendance records and the participating student to comply with the program's school attendance requirement.

Sec. 5107.282. The first time during a school year that a participating

student fails to comply with the learnfare program's school attendance requirement, the county department of ~~human~~ job and family services shall send the parent a notice warning that, if the student fails a second or subsequent time in the school year to comply with the school attendance requirement, the assistance group's cash assistance payment for the second month following report of the failure under section 5107.287 of the Revised Code will be reduced to the amount the assistance group would be eligible to receive if the student was not a member of the assistance group. The county department shall send the notice not later than the last day of the month that it is informed of the first failure to comply.

If a participating student fails two or more times in a school year to comply with the school attendance requirement, the county department shall reduce the assistance group's cash assistance payment for the second month following report of the failure. The county department shall reduce the cash assistance payment to the amount the assistance group would be eligible to receive if the participating student was not a member of the assistance group.

Sec. 5107.283. The county department of ~~human~~ job and family services may provide an incentive established by the county department to the participating student or student's assistance group, whichever is appropriate, if the parent or, if the student is eighteen or nineteen years of age, the student, consents to the release of the student's school attendance records and the student complies with the learnfare school attendance requirement. An incentive may be a cash bonus or other form of incentive. The county department shall not receive any additional state or federal funds to pay for incentives.

Sec. 5107.284. The county department of ~~human~~ job and family services shall require the parent of each participating student, or, if the student is eighteen or nineteen years of age, the student to consent to release of the student's school attendance records. If the parent or participating student refuses to consent, the county department shall reduce the assistance group's cash assistance payment for the month immediately following the month of the refusal and each month thereafter until consent is given. The cash assistance payment shall be reduced to the amount the assistance group would be eligible to receive if neither the participating student nor the parent were members of the assistance group.

Sec. 5107.286. Communications between the school district and the county department of ~~human~~ job and family services concerning a participating student's attendance shall be made only through the attendance officers and assistants appointed under section 3321.14 or 3321.15 of the

evised Code.

Sec. 5107.287. The county department of ~~human~~ job and family services shall establish policies defining "good cause for being absent from school" and specifying what constitutes a day of attendance for purposes of the learnfare program's school attendance requirement.

Not later than the fifteenth day of each month of a school year or another time agreed to by the county department of ~~human~~ job and family services and state board of education but not later than the thirtieth day of each month, each attendance officer or assistant appointed under section 3321.14 or 3321.15 of the Revised Code who oversees the attendance of students enrolled in the school districts of a county that is participating in the learnfare program shall report to the county department of ~~human~~ job and family services the previous month's school attendance record of each participating student. The report shall specify which if any of the participating student's absences are excused because the absence meets the definition of "good cause for being absent from school." No absence for which there is good cause shall be considered in determining whether a participating student has complied with the learnfare program's school attendance requirement.

Sec. 5107.30. (A) As used in this section:

(1) "LEAP program" means the learning, earning, and parenting program.

(2) "Teen" means a participant of Ohio works first who is under age twenty and is a natural or adoptive parent or is pregnant.

(3) "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.

(B) The ~~department~~ director of ~~human~~ job and family services may adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:

(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;

(2) Conduct one or more special demonstration programs titled the "LEAP program" and establish requirements governing the program. The purpose of the LEAP program is to encourage teens to complete school.

(3) Require every teen who is subject to LEAP program requirements to attend school in accordance with the requirements governing the program unless the teen shows good cause for not attending school. The department shall provide, in addition to the cash assistance payment provided under Ohio works first, an incentive payment, in an amount determined by the

department, to every teen who is participating in the LEAP program and attends school in accordance with the requirements governing the program. The department shall reduce the cash assistance payment, in an amount determined by the department, under Ohio works first to every teen participating in the LEAP program who fails or refuses, without good cause, to attend school in accordance with the requirements governing the program.

(4) Require every teen who is subject to LEAP program requirements to enter into a written agreement with the county department of ~~human~~ job and family services that provides all of the following:

(a) The teen, to be eligible to receive the incentive payment under division (B)(3) of this section, must attend school in accordance with the requirements of the LEAP program;

(b) The county department will provide the incentive payment to the teen if the teen attends school;

(c) The county department will reduce the cash assistance payment under Ohio works first if the teen fails or refuses to attend school in accordance with the requirements governing the LEAP program.

(5) Evaluate the demonstration programs established under this section. In conducting the evaluations, the ~~state~~ department of ~~human~~ job and family services shall select control groups of teens who are otherwise subject to the LEAP program requirements.

(C) A teen who is participating in the LEAP program shall be considered to be participating in a work activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the teen is not subject to the requirements or sanctions of those sections, unless the teen is over age eighteen and meets the LEAP program requirements by participating regularly in work activities, developmental activities, or alternative work activities under those sections.

Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the Revised Code:

(A) "Alternative work activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of ~~human~~ job and family services under section 5107.64 of the Revised Code.

(B) "Developmental activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of ~~human~~ job and family services under section 5107.62 of the Revised Code.

(C) "High school equivalence diploma" means a diploma attesting to achievement of the equivalent of a high school education as measured by

scores obtained on the tests of general educational development published by the American council on education. "High school equivalence diploma" includes a certificate of high school equivalence issued prior to January 1, 1994, attesting to the achievement of the equivalent of a high school education as measured by scores obtained on tests of general educational development.

(D) "Work activity" means the following:

(1) Unsubsidized employment activities established under section 5107.60 of the Revised Code;

(2) The subsidized employment program established under section 5107.52 of the Revised Code;

(3) The work experience program established under section 5107.54 of the Revised Code;

(4) On-the-job training activities established under section 5107.60 of the Revised Code;

(5) The job search and readiness program established under section 5107.50 of the Revised Code;

(6) Community service activities established under section 5107.60 of the Revised Code;

(7) Vocational educational training activities established under section 5107.60 of the Revised Code;

(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;

(9) Education activities established under section 5107.60 of the Revised Code that are directly related to employment for participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma;

(10) Education activities established under section 5107.60 of the Revised Code for participants of Ohio works first who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma;

(11) Child-care service activities, including training, established under section 5107.60 of the Revised Code to aid another participant of Ohio works first assigned to a community service activity or other work activity;

(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code;

(13) Except as limited by division (C) of section 5107.30 of the Revised

Code, the LEAP program established under that section.

Sec. 5107.41. As soon as possible after an assistance group submits an application to participate in Ohio works first, the county department of ~~human~~ job and family services that receives the application shall schedule and conduct an appraisal of each member of the assistance group who is a minor head of household or adult. The appraisal may include an evaluation of the employment, educational, physiological, and psychological abilities or liabilities, or both, of the minor head of household or adult. At the appraisal, the county department shall develop with the minor head of household or adult a plan for the assistance group to achieve the goal of self sufficiency and personal responsibility through unsubsidized employment within the time limit for participating in the Ohio works first program established by section 5107.18 of the Revised Code. The plan shall include assignments to one or more work activities, developmental activities, or alternative work activities in accordance with section 5107.42 of the Revised Code. The county department shall include the plan in the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

The county department shall conduct more appraisals of the minor head of household or adult at times the county department determines.

If the minor head of household or adult claims to have a medically determinable physiological or psychological impairment, illness, or disability, the county department may require that the minor head of household or adult undergo an independent medical or psychological examination at a time and place reasonably convenient to the minor head of household or adult.

Sec. 5107.42. (A) Except as provided in divisions (B) and (C) of this section, county departments of ~~human~~ job and family services shall assign each minor head of household and adult participating in Ohio works first to one or more work activities and developmental activities.

If a county department assigns a minor head of household or adult to the work activity established under division (H) of section 5107.60 of the Revised Code, the county department shall make reasonable efforts to assign the minor head of household or adult to at least one other work activity at the same time. If a county department assigns a minor head of household or adult to the work activity established under section 5107.58 of the Revised Code, the county department shall assign the minor head of household or adult to at least one other work activity at the same time.

A county department may not assign a minor head of household or adult to a work activity established under division (D) of section 5107.60 of the

Revised Code for more than twelve months.

(B) If a county department determines that a minor head of household or adult has a temporary or permanent barrier to participation in a work activity, it may assign the minor head of household or adult to one or more alternative work activities instead of assigning the minor head of household or adult to one or more work activities or developmental activities. A county department may not assign more than twenty per cent of minor heads of household and adults participating in Ohio works first to an alternative work activity.

County departments shall establish standards for determining whether a minor head of household or adult has a temporary or permanent barrier to participating in a work activity. The following are examples of circumstances that a county department may consider when it develops its standards:

(1) A minor head of household or adult provides the county department documented evidence that one or more members of the assistance group have been the victim of domestic violence and are in imminent danger of suffering continued domestic violence;

(2) A minor head of household or adult is actively participating in an alcohol or drug addiction program certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code;

(3) An assistance group is homeless.

(C) A county department may exempt a minor head of household or adult who is unmarried and caring for a minor child under twelve months of age from the work requirements of sections 5107.40 to 5107.69 of the Revised Code for not more than twelve months. While exempt, the minor head of household or adult shall be disregarded in determining whether the county department is meeting the requirement of section 5107.44 of the Revised Code. The county department shall assign the exempt minor head of household or adult to at least one developmental activity for a number of hours a week the county department determines. The county department may assign the exempt minor head of household or adult to one or more work activities, in addition to developmental activities, for a number of hours the county department determines. Division (B) of section 5107.43 of the Revised Code does not apply to the exempt minor head of household or adult.

(D) A county department may reassign a minor head of household or adult when the county department determines reassignment will aid the assistance group in achieving self sufficiency and personal responsibility and shall make reassignments when circumstances requiring reassignment

occur, including when a temporary barrier to participating in a work activity is eliminated.

A county department shall include assignments in the self-sufficiency contract entered into under section 5107.14 of the Revised Code and shall amend the contract when a reassignment is made to include the reassignment in the contract.

Sec. 5107.43. (A) After a minor head of household or adult is assigned to a work activity, developmental activity, or alternative work activity under section 5107.42 of the Revised Code, a county department of ~~human~~ job and family services shall place the minor head of household or adult in the assigned activity as soon as the activity becomes available.

(B)(1) Except as provided in rules adopted under section 5107.05 of the Revised Code, a minor head of household or adult placed in one or more work activities or developmental activities shall participate in the activities at least the following number of hours each week as determined by the county department:

(a) In the case of a minor head of household or adult in an assistance group that includes only one adult, thirty hours;

(b) In the case of adults in an assistance group that includes two adults, thirty-five hours between the two adults.

(2) Of the hours specified in division (B)(1) of this section, a minor head of household or adult shall participate in one or more work activities at least twenty hours a week. After the minor head of household or adult has participated in a work activity established under section 5107.58 of the Revised Code for one thousand forty hours, the minor head of household or adult may not participate in that work activity for more than five hours a week. The minor head of household or adult may participate in one or more developmental activities for up to ten hours a week, including a developmental activity that is identical to a work activity established under section 5107.58 of the Revised Code.

(3) If a minor head of household or adult and county department agree, the minor head of household or adult may volunteer to participate in work activities and developmental activities for more than the number of weekly hours the county department determines under division (B)(1) of this section.

(C) A minor head of household or adult placed in one or more alternative work activities shall participate in the activities a number of hours each week a county department determines.

Sec. 5107.44. County departments of ~~human~~ job and family services, on a statewide average basis, shall exceed the federal minimum work activity

participation rates established by section 407(a) of Title IV-A, 42 U.S.C.A. 607(a), by not less than five percentage points.

Sec. 5107.50. There is hereby established, as a work activity under Ohio works first, the job search and readiness program under which applicants for and participants of Ohio works first are trained in strategies and skills in obtaining employment and engage in self-directed, job search activities. County departments of ~~human~~ job and family services shall develop and administer the program and may utilize the services of private or government entities under contract with the county department or the ~~state~~ department of ~~human~~ job and family services in operating the program.

A county department may assign a minor head of household or adult applying for Ohio works first to the job search and readiness program before the applicant's eligibility for Ohio works first is determined.

An applicant or participant assigned to the job search and readiness program may not participate in the program for more than six weeks, unless the unemployment rate of the state is at least fifty per cent greater than the unemployment rate of the United States, in which case the applicant or participant may participate in the program not more than twelve weeks. An applicant or participant may not participate in the program more than four consecutive weeks. For one time only per applicant or participant, a county department shall consider the applicant or participant to have participated in the program one week after the applicant or participant participates for three or four, as specified by the county department, days during the week.

Sec. 5107.52. (A) There is hereby established, as a work activity under Ohio works first, the subsidized employment program, under which private and government employers receive payments from appropriations to the department of ~~human~~ job and family services for a portion of the costs of salaries, wages, and benefits such employers pay to or on behalf of employees who are participants of the subsidized employment program at the time of employment.

(B) The director of ~~human~~ job and family services may redetermine rates of payments to employers under this section annually.

(C) A state agency or political subdivision may create or fill vacant full-time and part-time positions, including classified and unclassified positions for those positions that are included in the civil service under Chapter 124. of the Revised Code, for or with participants of the subsidized employment program. The ~~department~~ director shall specify in rules adopted under section 5107.05 of the Revised Code the maximum amount of time the department will subsidize the positions. After the subsidy expires, the agency or subdivision may hire the participant for an unclassified position or

as a provisional employee in the classified civil service, if the position is in the classified civil service, and the participant shall become certified in the same manner as other provisional employees. The director of administrative services may adopt rules in accordance with Chapter 119. of the Revised Code governing this division.

(D) Participants of the subsidized employment program for whom payments are made under this section:

(1) Shall be considered regular employees of the employer, entitled to the same employment benefits and opportunities for advancement and affiliation with employee organizations that are available to other regular employees of the employer, and the employer shall pay premiums to the bureau of workers' compensation on account of employees for whom payments are made;

(2) Shall be paid at the same rate as other employees doing similar work for the employer.

(E) An agreement for employment of a subsidized employment program participant by a private employer shall require that the participant be given preference for any unsubsidized full-time position with the employer that becomes available after the participant completes any probationary or training period specified in the agreement.

Sec. 5107.54. (A) There is hereby established, as a work activity under Ohio works first, the work experience program. A participant of Ohio works first placed in the program shall receive work experience from private and government entities.

Participants of Ohio works first assigned to the work experience program are not employees of the ~~state~~ department of ~~human~~ job and family services or a county department of ~~human~~ job and family services. The operation of the work experience program does not constitute the operation of an employment agency by the ~~state~~ department of ~~human~~ job and family services or a county department of ~~human~~ job and family services.

(B) County departments of ~~human~~ job and family services shall develop work projects to which participants of Ohio works first are assigned under the work experience program. Work projects may include assignments with private and government entities. Examples of work projects a county department may develop include unpaid internships, refurbishing publicly assisted housing, and having a participant volunteer to work at the head start agency in which the participant's minor child is enrolled. Each county department shall make a list of the work projects available to the public.

(C) Unless a county department of ~~human~~ job and family services pays the premiums for the entity, a private or government entity with which a

participant of Ohio works first is placed in the work experience program shall pay premiums to the bureau of workers' compensation on account of the participant.

Sec. 5107.541. A county department of ~~human~~ job and family services may contract with the chief administrator of a nonpublic school or with any school district board of education that has adopted a resolution under section 3319.089 of the Revised Code to provide for a participant of the work experience program who has a minor child enrolled in the nonpublic school or a public school in the district to be assigned under the work experience program to volunteer or work for compensation at the school in which the child is enrolled. Unless it is not possible or practical, a contract shall provide for a participant to volunteer or work at the school as a classroom aide. If that is impossible or impractical, the contract may provide for the participant to volunteer to work in another position at the school. A contract may provide for the nonpublic school or board of education to receive funding to pay for coordinating, training, and supervising participants volunteering or working in schools.

Notwithstanding section 3319.088 of the Revised Code, a participant volunteering or working as a classroom aide under this section is not required to obtain an educational aide permit or paraprofessional license. The participant shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code and is not entitled to any immunity or defense available under that chapter, the common law of this state, or section 9.86 of the Revised Code.

An assignment under this section shall include attending academic home enrichment classes that provide instruction for parents in creating a home environment that prepares and enables children to learn at school.

Sec. 5107.58. In accordance with a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code, county departments of ~~human~~ job and family services may establish and administer as a work activity for minor heads of households and adults participating in Ohio works first an education program under which the participant is enrolled full-time in post-secondary education leading to vocation at a state institution of higher education, as defined in section 3345.031 of the Revised Code; a private nonprofit college or university that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or is exempted by division (E) of section 1713.02 of the Revised Code from the requirement of a certificate; a school that holds a certificate of registration and program authorization

issued by the state board of proprietary school registration under Chapter 3332. of the Revised Code; or a school that has entered into a contract with the county department of ~~human~~ job and family services. The participant shall make reasonable efforts, as determined by the county department, to obtain a loan, scholarship, grant, or other assistance to pay for the tuition, including a federal Pell grant under 20 U.S.C.A. 1070a and an Ohio instructional grant under section 3333.12 of the Revised Code. If the participant has made reasonable efforts but is unable to obtain sufficient assistance to pay the tuition the program may pay the tuition. On or after October 1, 1998, the county department may enter into a loan agreement with the participant to pay the tuition. The total period for which tuition is paid and loans made shall not exceed two years. If the participant, pursuant to division (B)(3) of section 5107.43 of the Revised Code, volunteers to participate in the education program for more hours each week than the participant is assigned to the program, the program may pay or the county department may loan the cost of the tuition for the additional voluntary hours as well as the cost of the tuition for the assigned number of hours. The participant may receive, for not more than three years, support services, including publicly funded child day-care under Chapter 5104. of the Revised Code and transportation, that the participant needs to participate in the program. To receive support services in the third year, the participant must be, as determined by the educational institution in which the participant is enrolled, in good standing with the institution.

A county department that provides loans under this section shall establish procedures governing loan application for and approval and administration of loans granted pursuant to this section.

Sec. 5107.60. In accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan prepared under section 5101.80 of the Revised Code, and amendments to the plan, county departments of ~~human~~ job and family services shall establish and administer the following work activities, in addition to the work activities established under sections 5107.50, 5107.52, 5107.54, and 5107.58 of the Revised Code, for minor heads of households and adults participating in Ohio works first:

(A) Unsubsidized employment activities, including activities a county department determines are legitimate entrepreneurial activities;

(B) On-the-job training activities, including training to become an employee of a child day-care center or type A family day-care home, authorized provider of a certified type B family day-care home, or in-home aide;

(C) Community service activities including a program under which a

participant of Ohio works first who is the parent, guardian, custodian, or specified relative responsible for the care of a minor child enrolled in grade twelve or lower is involved in the minor child's education on a regular basis;

(D) Vocational educational training activities;

(E) Jobs skills training activities that are directly related to employment;

(F) Education activities that are directly related to employment for participants who have not earned a high school diploma or high school equivalence diploma;

(G) Education activities for participants who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma;

(H) Child-care service activities aiding another participant assigned to a community service activity or other work activity. A county department may provide for a participant assigned to this work activity to receive training necessary to provide child-care services.

Sec. 5107.62. County departments of ~~human~~ job and family services shall establish and administer developmental activities for minor heads of households and adults participating in Ohio works first. In establishing developmental activities, county departments are not limited by the restrictions that Title IV-A imposes on work activities. Developmental activities may be identical or similar to, or different from, work activities and alternative work activities.

In accordance with a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code, a county department may establish and administer a developmental activity under which a minor head of household or adult attends a school, special education program, or adult high school continuation program that conforms to the minimum standards prescribed by the state board of education or instructional courses designed to prepare the minor head of household or adult to earn a high school equivalence diploma. Pursuant to the waiver, a minor head of household or adult assigned to this developmental activity is required to earn a high school diploma, adult education diploma, or high school equivalence diploma not later than two years after the date the minor head of household or adult is placed in the activity.

Sec. 5107.64. County departments of ~~human~~ job and family services shall establish and administer alternative work activities for minor heads of households and adults participating in Ohio works first. In establishing alternative work activities, county departments are not limited by the

restrictions Title IV-A imposes on work activities. The following are examples of alternative work activities that a county department may establish:

(A) Parenting classes and life-skills training;

(B) Participation in an alcohol or drug addiction program certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code;

(C) In the case of a homeless assistance group, finding a home;

(D) In the case of a minor head of household or adult with a disability, active work in an individual written rehabilitation plan with the rehabilitation services commission;

(E) In the case of a minor head of household or adult who has been the victim of domestic violence, residing in a domestic violence shelter, receiving counseling or treatment related to the domestic violence, or participating in criminal justice activities against the domestic violence offender;

(F) An education program under which a participant who does not speak English attends English as a second language course.

Sec. 5107.65. (A)(1) No participant of Ohio works first shall be assigned to a work activity, developmental activity, or alternative work activity when the employer removes or discharges a person, for the purpose of substituting the participant in the person's place, in any of the following circumstances:

(a) The person is already employed as a regular full-time or part-time employee of the employer;

(b) The person has been employed full time or part time as a participant in a work activity, developmental activity, or alternative work activity;

(c) The person is or has been involved in a dispute between a labor organization and the employer;

(d) The person is on layoff from the same or any substantially equivalent job.

(B) No employer shall hire a participant of Ohio works first part-time to circumvent hiring a full-time employee.

(C) County departments of ~~human~~ job and family services shall establish and maintain a grievance procedure for resolving complaints by individuals or their representatives that the assignment of a participant of Ohio works first violates this section.

Sec. 5107.66. Subject to the availability of funds and except as limited by section 5107.58 of the Revised Code, county departments of ~~human~~ job and family services shall provide for participants of Ohio works first placed

in a work activity, developmental activity, or alternative work activity to receive support services the county department determines to be necessary. County departments may provide for applicants of Ohio works first placed in the work activity established under section 5107.50 of the Revised Code to receive support services the county department determines to be necessary. Support services may include publicly funded child day-care under Chapter 5104. of the Revised Code, transportation, and other services.

Sec. 5107.68. (A) The county directors of ~~human~~ job and family services shall implement and enforce the requirements of sections 5107.40 to 5107.69 of the Revised Code. State and local agencies shall cooperate with county departments of ~~human~~ job and family services to the maximum extent possible in the implementation of those sections.

(B) In employing persons to administer and supervise work activities, developmental activities, and alternative work activities under Ohio works first, a county department of ~~human~~ job and family services shall give first consideration to applicants for and participants of Ohio works first, provided such applicants and participants qualify for the administrative and supervisory positions to be filled. An applicant or participant shall be eligible for first consideration only within the county in which the applicant applies for or participant participates in Ohio works first.

(C) To the maximum extent practicable, necessary support services provided under section 5107.66 of the Revised Code shall be performed by participants of Ohio works first placed in a work activity, developmental activity, or alternative work activity.

Sec. 5107.69. If the United States secretary of health and human services informs the department of ~~human~~ job and family services that implementation of sections 5107.40 to 5107.69 of the Revised Code jeopardizes federal funding for the Ohio works first program, the department shall ensure that county departments of ~~human~~ job and family services require minor heads of household and adults participating in Ohio works first to participate in work activities, developmental activities, and alternative work activities in a manner consistent with 42 U.S.C.A. 607.

Sec. 5107.70. A county department of ~~human~~ job and family services, at times it determines, may conduct assessments of assistance groups participating in Ohio works first to determine whether any members of the group are in need of other assistance or services provided by the county department or other private or government entities. Assessments may include the following:

(A) Whether any member of the assistance group has a substance abuse problem;

(B) Whether there are any other circumstances that may limit an assistance group member's employability.

At the first assessment conducted by the county department, it shall inquire as to whether any member of an assistance group is the victim of domestic violence, including child abuse. The county department shall provide this information to the ~~state~~ department of ~~human~~ job and family services. The ~~state~~ department shall maintain the information for statistical analysis purposes.

The county department may refer an assistance group member to a private or government entity that provides assistance or services the county department determines the member needs. The entity may be a public children services agency, chapter of alcoholics anonymous, narcotics anonymous, or cocaine anonymous, or any other entity the county department considers appropriate.

Sec. 5107.72. Each county department of ~~human~~ job and family services shall refer a parent participating in Ohio works first whose minor child is a member of the parent's assistance group to any private or public agency, medical doctor, clinic, or other person or organization which can advise the parent on methods of controlling the size and spacing of the parent's family, consistent with the parent's religious and moral views. A county department shall document each referral it makes under this section.

Sec. 5107.76. As used in this section, "erroneous payments" means payments of cash assistance made under Ohio works first to assistance groups not eligible to receive the assistance, including assistance paid as a result of misrepresentation or fraud and assistance paid due to an error by a member of an assistance group or a county department of ~~human~~ job and family services.

Except as provided in rules adopted under section 5107.05 of the Revised Code, each county department of ~~human~~ job and family services shall take action to recover erroneous payments. Action may include reducing payments of cash assistance made under Ohio works first to assistance groups that receive erroneous payments or instituting a civil action. If a minor child was a member of an assistance group that received an erroneous payment but becomes a member of a new assistance group that does not include a minor head of household or adult who also was a member of the previous assistance group, a county department shall not take action against the new assistance group to recover the erroneous payment the previous assistance group received.

Each county department of ~~human~~ job and family services shall retain fifty per cent of the nonfederal share of the erroneous payments it, prior to

October 1, 1996, determines occurred under this section, regardless of when recovery is made. The department of ~~human~~ job and family services shall receive the remaining fifty per cent of the nonfederal share of those payments. Each county department shall retain twenty-five per cent of erroneous payments it, on or after October 1, 1996, determines occurred and recovers and the ~~state~~ department shall receive the remaining seventy-five per cent.

Sec. 5107.78. The department of ~~human~~ job and family services shall include a notice with the following information with each cash assistance payment provided under Ohio works first to an assistance group residing in a county in which the computer system known as support enforcement tracking system is in operation:

(A) The number of months the assistance group has participated in Ohio works first and the remaining number of months the assistance group may participate in the program as limited by section 5107.18 of the Revised Code;

(B) The amount of support payments due a member of the assistance group that a child support enforcement agency collected and paid to the department pursuant to section 5107.20 of the Revised Code during the most recent month for which the department has this information.

Sec. 5108.02. There is hereby established the prevention, retention, and contingency program. The department of ~~human~~ job and family services shall administer the program, as long as federal funds are provided for the program, in accordance with Title IV-A, federal regulations, state law, the state Title IV-A plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan.

Sec. 5108.07. The department of job and family services shall develop a model design for the prevention, retention, and contingency program that county departments of ~~human~~ job and family services may adopt under section 5108.08 of the Revised Code. The model design must be consistent with Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan. ~~The department shall not adopt~~ No rules shall be adopted to develop the model design. The department shall provide each county department a written copy of the model design.

Sec. 5108.08. Each county department of ~~human~~ job and family services shall either adopt the model design for the prevention, retention, and contingency program the ~~state~~ department of ~~human~~ job and family services

develops under section 5108.07 of the Revised Code or develop its own policies for the program. To develop its own policies, a county department shall adopt a written statement of the policies governing the program. The policies may be a modification of the model design, different from the model design, or a combination. The policies shall establish or specify eligibility requirements, assistance or services to be provided under the program, administrative requirements, and other matters the county department determines necessary. A county department may amend its statement of policies to modify, terminate, and establish new policies. The policies must be consistent with Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan.

A county department of job and family services shall inform the ~~state~~ department of job and family services of whether it has adopted the model design or developed its own policies for the prevention, retention, and contingency program. If a county department develops its own policies, it shall provide the ~~state~~ department a written copy of the statement of policies and any amendments it adopts to the statement.

Sec. 5108.09. When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding the prevention, retention, and contingency program, the hearing officer, director of ~~human~~ job and family services, or director's designee shall base the decision in the hearing or appeal on the following:

(A) If the county department of ~~human~~ job and family services involved in the hearing or appeal adopted the ~~state~~ department of ~~human~~ job and family services' model design for the program developed under section 5108.07 of the Revised Code, the model design;

(B) If the county department developed its own policies for the program, the county department's written statement of policies adopted under section 5108.08 of the Revised Code and any amendments the county department adopted to the statement.

Sec. 5108.10. An assistance group seeking to participate in the prevention, retention, and contingency program shall apply to a county department of ~~human~~ job and family services using an application containing information the county department requires.

When a county department receives an application for participation in the prevention, retention, and contingency program, it shall promptly make an investigation and record of the circumstances of the applicant in order to

ascertain the facts surrounding the application and to obtain such other information as may be required. On completion of the investigation, the county department shall determine whether the applicant is eligible to participate, the assistance or services the applicant should receive, and the approximate date when participation is to begin.

Sec. 5111.01. As used in this chapter, "medical assistance program" or "medicaid" means the program that is authorized by this section and provided by the department of ~~human~~ job and family services under this chapter, Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the waivers of Title XIX requirements granted to the department by the health care financing administration of the United States department of health and human services.

(A) The department of ~~human~~ job and family services may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:

(1) Families with children that meet either of the following conditions:

(a) The family meets the income, resource, and family composition requirements in effect on July 16, 1996, for the former aid to dependent children program as those requirements were established by Chapter 5107. of the Revised Code, federal waivers granted pursuant to requests made under former section 5101.09 of the Revised Code, and rules adopted by the department or any changes the department makes to those requirements in accordance with paragraph (a)(2) of section 114 of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of implementing section 5111.019 of the Revised Code. An adult loses eligibility for medical assistance under division (A)(1)(a) of this section pursuant to division (E) of section 5107.16 of the Revised Code.

(b) The family does not meet the requirements specified in division (A)(1)(a) of this section but is eligible for medical assistance pursuant to section 5101.18 of the Revised Code.

(2) Aged, blind, and disabled persons who meet the following conditions:

(a) Receive federal aid under Title XVI of the "Social Security Act," or are eligible for but are not receiving such aid, provided that the income from all other sources for individuals with independent living arrangements shall not exceed one hundred seventy-five dollars per month. The income standards hereby established shall be adjusted annually at the rate that is used by the United States department of health and human services to adjust the amounts payable under Title XVI.

(b) Do not receive aid under Title XVI, but meet any of the following criteria:

(i) Would be eligible to receive such aid, except that their income, other than that excluded from consideration as income under Title XVI, exceeds the maximum under division (A)(2)(a) of this section, and incurred expenses for medical care, as determined under federal regulations applicable to section 209(b) of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 U.S.C.A. 1396a(f), as amended, equal or exceed the amount by which their income exceeds the maximum under division (A)(2)(a) of this section;

(ii) Received aid for the aged, aid to the blind, or aid for the permanently and totally disabled prior to January 1, 1974, and continue to meet all the same eligibility requirements;

(iii) Are eligible for medical assistance pursuant to section 5101.18 of the Revised Code.

(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medical assistance be provided;

(4) Persons under age twenty-one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The ~~department~~ director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division (A)(4) of this section.

(B) If funds are appropriated for such purpose by the general assembly, the department may provide medical assistance to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.

(C) The department may expand eligibility for medical assistance to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the department receives the approval of the federal government. The department may implement the eligibility expansion authorized under this division on any date selected by the department, but not sooner than January 1, 1998.

(D) In addition to any other authority or requirement to adopt rules under this chapter, the ~~department~~ director may adopt rules in accordance with section 111.15 of the Revised Code as ~~it~~ the director considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance. The rules may establish requirements to be followed in applying for medical assistance, making

determinations of eligibility for medical assistance, and verifying eligibility for medical assistance. The rules may include special conditions as the department determines appropriate for making applications, determining eligibility, and verifying eligibility for any medical assistance that the department may provide pursuant to division (C) of this section and section 5111.014 or 5111.019 of the Revised Code.

Sec. 5111.011. (A) As used in this section:

(1) "Nursing facility" means a facility defined as a nursing facility under Sec. 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396r, as amended.

(2) "Institutionalized individual" means an individual who is a patient in a nursing facility or who receives home and community-based services under a federal waiver granted the department of ~~human~~ job and family services under 42 U.S.C. 1396a(10)(A)(ii)(VI).

(B) Subject to this section, the ~~department~~ director of ~~human~~ job and family services shall, pursuant to section 111.15 of the Revised Code, adopt rules establishing eligibility requirements for the medical assistance program and defining, consistent with federal law, the term "resources" as used in this section.

(C) In determining eligibility for medical assistance, the value of real property of aged, blind, or disabled persons used as a homestead by such persons shall be the maximum allowed under Title XVI of the "Social Security Act."

(D) Except as provided in division (G) of this section, no person is eligible for medical assistance if on or prior to December 31, 1989, the person has transferred real or personal property for the purpose of securing medical assistance under section 5111.01 of the Revised Code and the transfer occurred during the two years preceding the person's application. In order to secure compliance with this division, the director of ~~human~~ job and family services shall require all applicants for assistance to submit true and correct copies of any federal income or gift tax form or schedule filed, singly or jointly, by the applicant during the preceding five taxable years. Such copies, and the information disclosed thereon, shall be used solely for the purpose of determining the probability of whether the applicant has transferred assets in violation of this division. The director shall provide for the confidentiality and return of any copies of forms or schedules submitted under this division. Where such copies reveal the probability that an applicant has transferred assets in violation of this division, a presumption arises that the applicant has transferred assets in violation of this division, and the director shall deny the application until the applicant submits a true

and accurate expenditure statement to the director that shows the applicant did not violate this division. The director of ~~human~~ job and family services shall adopt rules to implement this provision.

(E)(1) Except as provided in division (G) of this section, an institutionalized individual who is otherwise eligible for medical assistance shall be ineligible for nursing facility services or services provided under a home and community-based waiver for a period specified in rules adopted under division (E)(2) of this section if the institutionalized individual, on or after January 1, 1990, transfers resources for less than fair market value at any time during or after a period of time, as specified in rules adopted under division (E)(2) of this section, immediately prior to either of the following:

(a) The date the individual becomes an institutionalized individual if the individual is eligible for medical assistance on that date;

(b) The date the individual applies for medical assistance while an institutionalized individual.

(2) The ~~department~~ director shall adopt rules specifying, for the purpose of division (E)(1) of this section, the period of time preceding institutionalization or application for medical assistance during which transfers of assets for less than fair market value are prohibited and the length of the resulting period of ineligibility. The period of ineligibility shall begin with the month in which the resources were transferred. The rules shall be consistent with Title XIX of the "Social Security Act. The department shall allow exceptions to the period of ineligibility to the extent that exceptions are permitted by that title. An exception based on undue hardship to the institutionalized individual shall be allowed only so long as the individual cooperates with the department or the county department of ~~human~~ job and family services in securing the return of transferred resources.

(3) To secure compliance with this division, the department may require applicants for and recipients of medical assistance, as a condition of eligibility, to provide documentation of their income and resources up to five years prior to the time of application. Documentation may include, but is not limited to, tax returns, records from financial institutions, and real property records.

(F) The ~~department~~ director shall, by rule adopted in accordance with section 111.15 of the Revised Code, establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for medical assistance. Notwithstanding any provision of state law, including statutes, administrative rules, common law, and court rules, regarding real or

personal property or domestic relations, the standards established under this division shall be used to determine eligibility for medical assistance.

(G) The ~~department~~ director may, by rule adopted in accordance with section 111.15 of the Revised Code, exempt individuals who apply for or receive any medical assistance that may be provided pursuant to division (C) of section 5111.01 of the Revised Code from some or all of the requirements of this section.

Sec. 5111.012. The county department of ~~human~~ job and family services of each county shall establish the eligibility for medical assistance of persons living in the county, and shall notify the department of ~~human~~ job and family services in the manner prescribed by the department. The county shall be reimbursed for administrative expenditures in accordance with sections 5101.16, 5101.161, and 5701.01 of the Revised Code. Expenditures for medical assistance shall be made from funds appropriated to the department of ~~human~~ job and family services for public assistance subsidies. The program shall conform to the requirements of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division (A)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of ~~human~~ job and family services shall do all of the following with regard to the application procedures for the healthy start program ~~and the Ohio children's health care program~~:

(1) Establish a short application form for ~~each or both programs~~ the program that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the healthy start ~~or Ohio children's health care~~ program, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program to apply for assistance provided under any other program administered by the department and that she understands that she is permitted at any other time to apply at the county department of ~~human~~ job and family services of the county in which she resides for any other assistance administered by the department.

(2) To the extent permitted by federal law, do one or both of the following:

(a) Distribute the application form for the ~~programs~~ program to each

ublic or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency or entity to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of ~~human~~ job and family services are stationed at public or private agencies or entities selected by the department of ~~human~~ job and family services that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the ~~programs~~ program in completing the application form and of making determinations at that location of eligibility for the ~~programs~~ program.

(3) Establish performance standards by which a county department of ~~human~~ job and family services' level of enrollment of persons potentially eligible for ~~each~~ the program can be measured, and establish acceptable levels of enrollment for each county department.

(4) Direct any county department of ~~human~~ job and family services whose rate of enrollment of potentially eligible enrollees in ~~either~~ the program is below acceptable levels established under division (B)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following to the extent permitted by federal law:

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start ~~and Ohio health care program~~ applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

(C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start ~~and Ohio children's health care programs~~

program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.

(D) The director of ~~human~~ job and family services shall do one or both of the following:

(1) To the extent that federal funds are provided for such assistance, adopt a plan for granting presumptive eligibility for pregnant women applying for healthy start;

(2) To the extent permitted by federal medicaid regulations, adopt a plan for making same-day determinations of eligibility for pregnant women applying for healthy start.

(E) A county department of ~~human~~ job and family services that maintains offices at more than one location shall accept applications for the healthy start program ~~and the Ohio children's health care program~~ at all of those locations.

(F) The director of ~~human~~ job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.

Sec. 5111.014. (A) The director of ~~human~~ job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual who meets all of the following requirements eligible for medicaid:

(1) The individual is pregnant;

(2) The individual's family income does not exceed one hundred fifty per cent of the federal poverty guidelines;

(3) The individual satisfies all relevant requirements established by rules adopted under division (D) of section 5111.01 of the Revised Code.

(B) If approved by the United States secretary of health and human services, the director of ~~human~~ job and family services shall implement the medicaid plan amendment submitted under division (A) of this section as soon as possible after receipt of notice of the approval, but not sooner than January 1, 2000.

Sec. 5111.015. (A) If the United States secretary of health and human services grants a waiver of any contrary federal requirements governing the medical assistance program or the director of ~~human~~ job and family services determines that there are no contrary federal requirements, divisions (A)(1) and (2) of this section apply to determinations of eligibility under this

ter:

(1) In determining the eligibility of an assistance group for assistance under this chapter, the department of ~~human~~ job and family services shall exclude from the income and resources applicable to the assistance group the value of any tuition payment contract entered into under section 3334.09 of the Revised Code or any scholarship awarded under section 3334.18 of the Revised Code and the amount of payments made by the Ohio tuition trust authority under section 3334.09 of the Revised Code pursuant to the contract or scholarship.

(2) The department shall not require any person to terminate a tuition payment contract entered into under Chapter 3334. of the Revised Code as a condition of an assistance group's eligibility for assistance under this chapter.

(B) To the extent required by federal law, the department shall include as income any refund paid under section 3334.10 of the Revised Code to a member of the assistance group.

(C) Not later than sixty days after ~~the effective date of this section~~ JULY 1, 1994, the department shall apply to the United States department of health and human services for a waiver of any federal requirements that otherwise would be violated by implementation of division (A) of this section.

Sec. 5111.016. As used in this section, "healthcheck" has the same meaning as in section 3313.714 of the Revised Code.

In accordance with federal law and regulations, the department of ~~human~~ job and family services shall establish a combination of written and oral methods designed to provide information about healthcheck to all persons eligible for the program or their parents or guardians. The department shall ensure that its methods of providing information are effective.

Each county department of ~~human~~ job and family services or other entity that distributes or accepts applications for medical assistance shall prominently display in a conspicuous place the following notice:

"Under state and federal law, if you are a Medicaid recipient, your child is entitled to a thorough medical examination provided through Healthcheck. Once this examination is completed, your child is entitled to receive, at no cost to you, any service determined to be medically necessary."

Sec. 5111.017. The department of ~~human~~ job and family services shall establish a program for substance abuse assessment and treatment referral for recipients of medical assistance under this chapter who are pregnant and

are required by statute or rule of the department to receive medical services through a managed care organization. Each such pregnant woman shall be screened for alcohol and other drug use at her first prenatal medical examination.

The department of ~~human~~ job and family services shall require each managed care organization providing services to medical assistance recipients pursuant to a contract with the department of ~~human~~ job and family services to inform persons who will provide prenatal medical services to a pregnant recipient about the requirements of this section. The department also shall require persons providing prenatal medical services to a pregnant recipient pursuant to the managed care organization's contract with the department to do both of the following if the person providing prenatal medical services, following screening, determines the recipient may have a substance abuse problem:

(A) Refer the recipient to an organization certified by the department of alcohol and drug addiction services for assessment;

(B) Inform the recipient of the possible effects of alcohol and other drug use on the fetus.

The ~~department~~ director of ~~human~~ job and family services, in consultation with the ~~department~~ director of alcohol and drug addiction services, shall adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this section.

Sec. 5111.018. (A) The provision of medical assistance under this chapter shall include coverage of inpatient care and follow-up care for a mother and her newborn as follows:

(1) The medical assistance program shall cover a minimum of forty-eight hours of inpatient care following a normal vaginal delivery and a minimum of ninety-six hours of inpatient care following a cesarean delivery. Services covered as inpatient care shall include medical, educational, and any other services that are consistent with the inpatient care recommended in the protocols and guidelines developed by national organizations that represent pediatric, obstetric, and nursing professionals.

(2) The medical assistance program shall cover a physician-directed source of follow-up care. Services covered as follow-up care shall include physical assessment of the mother and newborn, parent education, assistance and training in breast or bottle feeding, assessment of the home support system, performance of any medically necessary and appropriate clinical tests, and any other services that are consistent with the follow-up care recommended in the protocols and guidelines developed by national organizations that represent pediatric, obstetric, and nursing professionals.

he coverage shall apply to services provided in a medical setting or through home health care visits. The coverage shall apply to a home health care visit only if the health care professional who conducts the visit is knowledgeable and experienced in maternity and newborn care.

When a decision is made in accordance with division (B) of this section to discharge a mother or newborn prior to the expiration of the applicable number of hours of inpatient care required to be covered, the coverage of follow-up care shall apply to all follow-up care that is provided within forty-eight hours after discharge. When a mother or newborn receives at least the number of hours of inpatient care required to be covered, the coverage of follow-up care shall apply to follow-up care that is determined to be medically necessary by the health care professionals responsible for discharging the mother or newborn.

(B) Any decision to shorten the length of inpatient stay to less than that specified under division (A)(1) of this section shall be made by the physician attending the mother or newborn, except that if a nurse-midwife is attending the mother in collaboration with a physician, the decision may be made by the nurse-midwife. Decisions regarding early discharge shall be made only after conferring with the mother or a person responsible for the mother or newborn. For purposes of this division, a person responsible for the mother or newborn may include a parent, guardian, or any other person with authority to make medical decisions for the mother or newborn.

(C) The department of ~~human~~ job and family services, in administering the medical assistance program, may not do either of the following:

(1) Terminate the participation of a health care professional or health care facility as a provider under the program solely for making recommendations for inpatient or follow-up care for a particular mother or newborn that are consistent with the care required to be covered by this section;

(2) Establish or offer monetary or other financial incentives for the purpose of encouraging a person to decline the inpatient or follow-up care required to be covered by this section.

(D) This section does not do any of the following:

(1) Require the medical assistance program to cover inpatient or follow-up care that is not received in accordance with the program's terms pertaining to the health care professionals and facilities from which an individual is authorized to receive health care services.

(2) Require a mother or newborn to stay in a hospital or other inpatient setting for a fixed period of time following delivery;

(3) Require a child to be delivered in a hospital or other inpatient

setting;

(4) Authorize a nurse-midwife to practice beyond the authority to practice nurse-midwifery in accordance with Chapter 4723. of the Revised Code;

(5) Establish minimum standards of medical diagnosis, care, or treatment for inpatient or follow-up care for a mother or newborn. A deviation from the care required to be covered under this section shall not, on the basis of this section, give rise to a medical claim or derivative medical claim, as those terms are defined in section 2305.11 of the Revised Code.

Sec. 5111.019. (A) The director of ~~human~~ job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual who meets all of the following requirements eligible for medicaid for the amount of time provided by division (B) of this section:

(1) The individual is the parent of a child under nineteen years of age and resides with the child;

(2) The individual's family income does not exceed one hundred per cent of the federal poverty guidelines;

(3) The individual is not otherwise eligible for medicaid;

(4) The individual satisfies all relevant requirements established by rules adopted under division (D) of section 5111.01 of the Revised Code.

(B) An individual is eligible to receive medicaid under this section for a period that does not exceed two years beginning on the date on which eligibility is established.

(C) If approved by the United States secretary of health and human services and the director of ~~human~~ job and family services, the director shall implement the medicaid plan amendment submitted under this section not sooner than July 1, 2000. If a federal waiver is necessary for the United States secretary to approve the amendment, the director of ~~human~~ job and family services shall submit a waiver request to the United States secretary not later than ninety days after the effective date of this section.

Sec. 5111.02. (A) Under the medical assistance program:

(1) Reimbursement by the department of ~~human~~ job and family services to a medical provider for any medical service rendered under the program shall not exceed the authorized reimbursement level for the same service under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(2) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(3) The department may deduct from payments for services rendered by a medicaid provider under the medical assistance program any amounts the provider owes the state as the result of incorrect medical assistance payments the department has made to the provider.

(4) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(5) To the maximum extent that federal laws and regulations permit the implementation of such a policy, the department may institute a copayment program for all services provided under the medical assistance program. The program shall be administered in accordance with the applicable requirements set forth in federal laws and regulations.

(6) The number of days of inpatient hospital care for which reimbursement is made on behalf of a recipient of medical assistance to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(B) The director of ~~human~~ job and family services may adopt, amend, or rescind rules under Chapter 119. of the Revised Code establishing the amount, duration, and scope of medical services to be included in the medical assistance program. Such rules shall establish the conditions under which services are covered and reimbursed, the method of reimbursement applicable to each covered service, and the amount of reimbursement or, in lieu of such amounts, methods by which such amounts are to be determined for each covered service. Any rules that pertain to nursing facilities or intermediate care facilities for the mentally retarded shall be consistent with sections 5111.20 to 5111.33 of the Revised Code.

(C) No health insuring corporation that has a contract to provide health care services to recipients of medical assistance shall restrict the availability to its enrollees of any prescription drugs included in the Ohio medicaid drug formulary as established under rules ~~of~~ adopted by the ~~department~~ director.

(D) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the

nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.021. Under the medical assistance program, any amount determined to be owed the state by a final fiscal audit conducted pursuant to division (A)(4) of section 5111.02 of the Revised Code, upon the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code that contains a finding that there is a preponderance of the evidence that the provider will liquidate assets or file bankruptcy in order to prevent payment of the amount determined to be owed the state, becomes a lien upon the real and personal property of the provider. Upon failure of the provider to pay the amount to the state, the director of ~~human~~ job and family services shall file notice of the lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that the provider owns real or personal property. The director shall notify the provider by mail of the lien, but absence of proof that the notice was sent does not affect the validity of the lien. The lien is not valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time the notice is filed.

If the provider acquires real or personal property after notice of the lien is filed, the lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property unless the notice of lien is refiled after the property is acquired by the provider and before the competing lien attaches to the after-acquired property or before the conveyance to the subsequent bona fide purchaser for value.

When the amount has been paid, the provider may record with the recorder notice of the payment. For recording such notice of payment, the recorder shall charge and receive from the provider a fee of one dollar.

In the event of a distribution of a provider's assets pursuant to an order of any court under the law of this state including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, amounts then or thereafter due the state under this chapter have the same priority as provided by law for the payment of taxes due the state and shall be paid out of the receivership trust fund or other such trust fund in the same manner as provided for claims for unpaid taxes due the state.

If the attorney general finds after investigation that any amount due the state under this chapter is uncollectable, in whole or in part, ~~he~~ the attorney general shall recommend to the director the cancellation of all or part of the

claim. The director may thereupon effect the cancellation.

Sec. 5111.022. (A) The state plan for providing medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 301, as amended, shall include provision of the following mental health services when provided by facilities described in division (B) of this section:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services of three to fourteen hours per service day, rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional.

(B) Services shall be included in the state plan only when provided by community mental health facilities that have quality assurance programs accredited by the joint commission on accreditation of healthcare organizations or certified by the department of mental health or department of ~~human~~ job and family services.

(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match Title XIX reimbursement funds earned by the facilities. Reimbursement for eligible services shall be based on the prospective cost of providing the services as developed in standards adopted as part of the comprehensive annual plan.

(D) As used in this section, "mental health professional" means a person qualified to work with mentally ill persons under the minimum standards established by the director of mental health pursuant to section 5119.61 of the Revised Code.

(E) With respect to services established by division (A) of this section, the department of ~~human~~ job and family services shall enter into a separate contract with the department of mental health. The terms of the contract between the department of ~~human~~ job and family services and the department of mental health shall specify both of the following:

(1) That the department of mental health and boards of alcohol, drug addiction, and mental health services shall provide state and local matching funds for Title XIX of the "Social Security Act" for reimbursement of services established by division (A) of this section;

(2) How the community mental health facilities described in division (B) of this section will be paid for providing the services established by division (A) of this section.

Sec. 5111.023. (A) The department of ~~human~~ job and family services may provide medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in addition to such assistance provided under section 5111.01 of the Revised Code, as long as federal funds are provided for such assistance, to each former participant of the Ohio works first program established under Chapter 5107. of the Revised Code who meets all of the following requirements:

(1) Is ineligible to participate in Ohio works first solely as a result of increased income due to employment;

(2) Is not covered by, and does not have access to, medical insurance coverage through the employer with benefits comparable to those provided under this section, as determined in accordance with rules adopted by the ~~department~~ director of ~~human~~ job and family services under division (B) of this section;

(3) Meets any other requirement established by rule adopted under division (B) of this section.

(B) The ~~department~~ director of ~~human~~ job and family services shall adopt such rules under Chapter 119. of the Revised Code as are necessary to implement and administer the medical assistance program under this section.

(C) A person seeking to participate in a program of medical assistance under this section shall apply to the county department of ~~human~~ job and family services in the county in which the applicant resides. The application shall be made on a form prescribed by the ~~state~~ department of ~~human~~ job and family services and furnished by the county department.

(D) If the county department of ~~human~~ job and family services determines that a person is eligible to receive medical assistance under this section, the department shall provide assistance, to the same extent and in the same manner as medical assistance is provided to a person eligible for medical assistance pursuant to division (A)(1)(a) of section 5111.01 of the Revised Code, for no longer than twelve months, beginning the month after the date the participant's eligibility for Ohio works first is terminated.

Sec. 5111.03. (A) No provider of services or goods contracting with the department of ~~human~~ job and family services pursuant to the medicaid program shall, by deception, obtain or attempt to obtain payments under this chapter to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the ~~Ohio~~ department of

~~human~~ job and family services relating to the program. No provider shall willfully receive payments to which the provider is not entitled, or willfully receive payments in a greater amount than that to which the provider is entitled; nor shall any provider falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. As used in this section, a provider engages in "deception" when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a provider has engaged in deception.

(B) Any provider who violates division (A) of this section shall be liable, in addition to any other penalties provided by law, for all of the following civil penalties:

(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under section 1343.01 of the Revised Code on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;

(2) Payment of an amount equal to three times the amount of any excess payments;

(3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification;

(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(C) In addition to the civil penalties provided in division (B) of this section, the director of ~~human~~ job and family services, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to section 109.85 of the Revised Code, shall terminate the provider agreement between the department and the provider and stop reimbursement to the provider for services rendered for a period of up to five years from the date of conviction or entry of judgment. As used in this chapter, "owner" means any person

having at least five per cent ownership in the medicaid provider. No such provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of termination as provided in division (C) of this section, nor, during the period of termination as provided in division (C) of this section, shall ~~he~~ such provider, owner, officer, authorized agent, associate, manager, or employee receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. The provider agreement shall not be terminated or reimbursement terminated if the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a medicaid provider agreement if ~~he~~ the person can demonstrate that ~~he~~ the person had no knowledge of an action of the medicaid provider ~~he~~ the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code.

Providers subject to sections 5111.20 to 5111.32 of the Revised Code whose agreements are terminated pursuant to this section may continue to receive reimbursement for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer recipients to another facility or to alternate care and if federal funds are provided for such reimbursement.

(D) Any provider of services or goods contracting with the department of ~~human~~ job and family services pursuant to Title XIX of the "Social Security Act," who, without intent, obtains payments under this chapter in excess of the amount to which the provider is entitled, thereby becomes liable for payment of interest on the amount of the excess payments at the maximum real estate mortgage rate on the date the payment was made to the provider for the period from the date upon which payment was made to the date upon which repayment is made to the state.

(E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under

this section with the approval of the department of ~~human~~ job and family services. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates.

(F) The authority, under state and federal law, of the department of ~~human~~ job and family services or a county department of ~~human~~ job and family services to recover excess payments made to a provider is not limited by the availability of remedies under sections 5111.11 and 5111.12 of the Revised Code for recovering benefits paid on behalf of recipients of medical assistance.

The penalties under this chapter apply to any overpayment, billing, or falsification occurring on and after April 24, 1978. All moneys collected by the state pursuant to this section shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 5111.04. (A) As used in this section:

(1) "Outpatient health facility" means a facility that provides comprehensive primary health services by or under the direction of a physician at least five days per week on a forty-hour per week basis to outpatients, is operated by the board of health of a city or general health district or another public agency or by a nonprofit private agency or organization under the direction and control of a governing board that has no health-related responsibilities other than the direction and control of one or more such outpatient health facilities, and receives at least seventy-five per cent of its operating funds from public sources, except that it does not include an outpatient hospital facility or a federally qualified health center as defined in Sec. 1905(l) (2)(B) of the "Social Security Act," 103 Stat. 2264 (1989), 42 U.S.C.A. 1396d(l)(2)(B).

(2) "Comprehensive primary health services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that include all of the following:

(a) Services of physicians, physician assistants, and certified nurse practitioners;

(b) Diagnostic laboratory and radiological services;

(c) Preventive health services, such as children's eye and ear examinations, perinatal services, well child services, and family planning services;

(d) Arrangements for emergency medical services;

(e) Transportation services.

(3) "Certified nurse practitioner" has the same meaning as in section

4723.02 of the Revised Code.

(B) Outpatient health facilities are a separate category of medical care provider under the rules governing the administration of the medical assistance program established under section 5111.01 of the Revised Code. Rates of reimbursement for items and services provided by an outpatient health facility under this section shall be prospectively determined by the department of ~~human~~ job and family services not less often than once each year, shall not be subject to retroactive adjustment based on actual costs incurred, and shall not exceed the maximum fee schedule or rates of payment, limitations based on reasonable costs or customary charges, and limitations based on combined payments received for furnishing comparable services, as are applicable to outpatient hospital facilities under Title XVIII of the "Social Security Act." In determining rates of reimbursement prospectively, the department shall take into account the historic expenses of the facility, the operating requirements and services offered by the facility, and the geographical location of the facility, shall provide incentives for the efficient and economical utilization of the facility's resources, and shall ensure that the facility does not discriminate between classes of persons for whom or by whom payment for items and services is made.

(C) A facility does not qualify for classification as an outpatient health facility under this section unless it:

(1) Has health and medical care policies developed with the advice of and subject to review by an advisory committee of professional personnel, including one or more physicians, one or more dentists if dental care is provided, and one or more registered nurses;

(2) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(3) Requires that the care of every patient be under the supervision of a physician, provides for medical care in case of emergency, has in effect a written agreement with one or more hospitals and one or more other outpatient facilities, and has an established system for the referral of patients to other resources and a utilization review plan and program;

(4) Maintains clinical records on all patients;

(5) Provides nursing services and other therapeutic services in compliance with applicable laws and rules and under the supervision of a registered nurse, and has a registered nurse on duty at all times when the facility is in operation;

(6) Follows approved methods and procedures for the dispensing and

administration of drugs and biologicals;

(7) Maintains the accounting and record-keeping system required under federal laws and regulations for the determination of reasonable and allowable costs.

Sec. 5111.05. (A) The department of ~~human~~ job and family services may contract with any person or persons as a fiscal agent for the examination, processing, and determination of medical assistance claims under this chapter. The contracting party may provide any of the following services, as required by the contract:

(1) Design and operate medicaid management information systems, including the provision of data processing services;

(2) Determine the amounts of payments to be made upon claims for medical assistance;

(3) Prepare and furnish to the department lists and computer tapes of such claims for payment;

(4) In addition to audits which may be conducted by the department and by the auditor of state, make audits of providers and the claims of providers of medical assistance according to the standards set forth in the contract;

(5) Assist providers of medical assistance in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, implement and enforce standards of medical policy, and assist in the application of safeguards against unnecessary utilization;

(6) Assist any institution, facility, or agency to qualify as a provider of medical assistance;

(7) Establish and maintain fiscal records for the medical assistance program;

(8) Perform statistical and research studies;

(9) Develop and implement programs for medical assistance cost containment;

(10) Perform such other duties as are necessary to carry out the medical assistance program.

(B) The department of ~~human~~ job and family services may contract with any person or persons as an insuring agent for the examination, processing, and determination of medical assistance claims, as provided in division (A) of this section, and for the payment of medical assistance claims through an underwritten program in which the state pays the insuring agent a monthly premium and the insuring agent pays for medical services authorized under the state's medical assistance program. The person with whom the department contracts, with respect to the awarding, provisions, and

performance of such contract, shall not be subject to the provisions of Title XXXIX of the Revised Code or to regulation by the department of insurance, nor to taxation as an insurance company pursuant to section 5725.18 or 5729.03 of the Revised Code. A contract with an insuring agent shall specify the qualifications, including capital and surplus requirements, and other conditions with which the insuring agent must comply.

(C) In entering into a contract under this section, the department, in cooperation with the director of budget and management, shall determine that the contracting party is qualified to perform the required services and shall follow applicable procedures required of the department of administrative services in sections 125.07 to 125.11 of the Revised Code. A contract shall be awarded to the bidder who, with due consideration to ~~his~~ the bidder's experience and financial capability, offers the lowest and best bid to the state for control of the costs of the medical assistance program consistent with meeting the obligations under that program for fair and equitable treatment of recipients and providers of medical services. Any arrangement whereby funds are paid to an insuring or fiscal agent for administrative functions under this section shall, for the purposes of section 125.081 of the Revised Code, be deemed to be a contract or purchase by the department of administrative services; however, money to be used by an insuring agent to pay for medical services authorized under the state's medical assistance program shall not be deemed a contract or purchase within the meaning of such section.

Sec. 5111.06. (A)(1) As used in this section:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of ~~human~~ job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of ~~human~~ job and family services under sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a

der, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of ~~human~~ job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded subject to sections 5111.20 to 5111.32 of the Revised Code.

Sec. 5111.07. Commencing in July, 1986, and every second July thereafter, the department of ~~human~~ job and family services shall initiate a private survey of retail pharmacy operations in the state as the basis for establishing a current maximum dispensing fee for licensed pharmacists who are providers of drugs under this chapter. The survey shall be conducted in conformance with the requirements set forth in 42 C.F.R. 447.331 through 447.333, as amended or superseded, and shall include operational data and direct prescription expenses, professional services and personnel costs, usual and customary overhead expenses, and profit data of the retail pharmacies surveyed. The survey shall be completed and its results published no later than the last day of October of the year in which the survey is conducted, and the survey shall compute and report dispensing fees on a basis of the usual and customary charges by retail pharmacies to their customers for dispensing drugs. The director of ~~human~~ job and family services shall take into account the results of the survey in establishing a dispensing fee.

Sec. 5111.08. Commencing in December, 1986, and every second December thereafter, the director of ~~human~~ job and family services shall establish a dispensing fee, effective the following January, for licensed pharmacists who are providers under this chapter. The dispensing fee shall take into consideration the results of the survey conducted under section 5111.07 of the Revised Code.

Sec. 5111.09. On or before the first day of January of each year, the department of ~~human~~ job and family services shall submit to the speaker and minority leader of the house of representatives and the president and minority leader of the senate, and shall make available to the public, a report on the effectiveness of the Ohio works first program established under Chapter 5107. of the Revised Code and the medical assistance program established under this chapter in meeting the health care needs of low-income pregnant women, infants, and children. The report shall include: the estimated number of persons eligible for health care services to pregnant women, infants, and children under the programs; the actual number of eligible persons served; the number of prenatal, postpartum, and child health visits; a report on birth outcomes, including a comparison of low-birthweight births and infant mortality rates of program participants with the general female child-bearing and infant population in this state; and a comparison of the prenatal, delivery, and child health costs of the programs with such costs of similar programs in other states, where available.

Sec. 5111.10. To the extent permitted by the "Social Security Act," 49

Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations adopted under that act, the department of ~~human~~ job and family services may enter into agreements with political subdivisions to use funds of the political subdivision to pay the nonfederal share of expenditures under the medical assistance program. The determination and provision of federal financial reimbursement to a subdivision entering into an agreement under this section shall be determined by the department, subject to approval by the United States secretary of health and human services and the availability of federal financial participation.

Sec. 5111.11. (A) As used in this section, "estate" means all property to be administered under Title XXI of the Revised Code and property that would be administered under that title if not for section 2113.03 of the Revised Code.

(B) For the purpose of recovering the cost of services correctly paid under the medical assistance program to a recipient age fifty-five or older, the department of ~~human~~ job and family services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of such a program. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty-one or blind or permanently and totally disabled.

The department may enter into a contract with any person under which the person administers the estate recovery program on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person to be compensated from the property recovered from the estates of medical assistance recipients or may provide for such other manner of compensation as is agreed to by the person and the department. Regardless of whether it is administered by the department or a person under contract with the department, the program shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.

(C) The department may waive seeking recovery of medical assistance correctly paid if the director of ~~human~~ job and family services determines that recovery would work an undue hardship. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules establishing procedures for waiver of recovery due to an undue hardship, which shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended.

(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that section, pursuant to a contract with the department.

Sec. 5111.111. As used in this section, "home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.

The department of ~~human~~ job and family services may place a lien against the property of a medical assistance recipient or recipient's spouse, other than a recipient or spouse of a recipient of home and community-based services, that the department may recover as part of the program instituted under section 5111.11 of the Revised Code. When medical assistance is paid on behalf of any person in circumstances under which federal law and regulations and this section permit the imposition of a lien, the director of ~~human~~ job and family services or a person designated by the director may sign a certificate to the effect. The county department of ~~human~~ job and family services shall file for recording and indexing the certificate, or a certified copy, in the real estate mortgage records in the office of the county recorder in every county in which real property of the recipient or spouse is situated. From the time of filing the certificate in the office of the county recorder, the lien attaches to all real property of the recipient or spouse described therein for all amounts of aid which thereafter are paid, and shall remain a lien until satisfied.

Upon filing the certificate in the office of the recorder, all persons are charged with notice of the lien and the rights of the department of ~~human~~ job and family services thereunder.

The county recorder shall keep a record of every certificate filed showing its date, the time of filing, the name and residence of the recipient or spouse, and any release, waivers, or satisfaction of the lien.

The priority of the lien shall be established in accordance with state and federal law.

The department may waive the priority of its lien to provide for the costs of the last illness as determined by the department, administration, attorney fees, administrator fees, a sum for the payment of the costs of burial, which shall be computed by deducting from five hundred dollars whatever amount is available for the same purpose from all other sources, and a similar sum for the spouse of the decedent.

Sec. 5111.112. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section 3722.01 of

the Revised Code.

(2) "Commissioner" means a person appointed by a probate court under division (B) of section 2113.03 of the Revised Code to act as a commissioner.

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of ~~human~~ job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of an adult care facility or home who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of ~~human~~ job and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the facility or home shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the adult care facility or home, and the owner or operator of the facility or home, from any claim for the money from any source.

(F) If, sixty-one or more days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an

application for release from administration under section 2113.03 of the Revised Code is filed, concerning the resident's estate, the department of ~~human~~ job and family services shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the estate recovery program instituted under section 5111.11 of the Revised Code.

Sec. 5111.113. As used in this section, "nursing facility" and "intermediate care facility for the mentally retarded" have the same meanings as in section 5111.20 of the Revised Code.

In determining the amount of income that a recipient of medical assistance must apply monthly toward payment of the cost of care in a nursing facility or intermediate care facility for the mentally retarded, the county department of ~~human~~ job and family services shall deduct from the recipient's monthly income a monthly personal needs allowance in accordance with section 1902 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396a, as amended.

For a resident of a nursing facility, the monthly personal needs allowance shall be not less than forty dollars for an individual resident and not less than eighty dollars for a married couple if both spouses are residents of a nursing facility.

For a resident of an intermediate care facility for the mentally retarded, the monthly personal needs allowance shall be forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the state department of ~~human~~ job and family services but shall not exceed one hundred five dollars.

Sec. 5111.12. (A) The director of ~~human~~ job and family services shall establish rules under which county departments of ~~human~~ job and family services may take action to recover benefits incorrectly paid on behalf of recipients of medical assistance. The rules shall provide for recovery by the following methods:

(1) Soliciting voluntary payments from recipients or from persons holding property in which a recipient has a legal or equitable interest;

(2) Obtaining a lien on property pursuant to division (B) of this section.

(B) A county department of ~~human~~ job and family services may bring a civil action in a court of common pleas against a recipient of medical assistance for the recovery of any medical assistance benefits determined by the court to have been paid incorrectly on behalf of the recipient. All persons holding property in which the recipient has a legal or equitable interest may be joined as parties. The court may issue pre-judgment orders, including injunctive relief or attachment under Chapter 2715. of the Revised

Code, for the preservation of real or personal property in which the recipient may have a legal or equitable interest. If the court determines that benefits were paid incorrectly and issues a judgment to that effect, the county department may obtain a lien upon property of the recipient in accordance with Chapter 2329. of the Revised Code.

(C) The county department of ~~human~~ job and family services shall retain fifty per cent of the balance remaining after deduction from the recovery of the amount required to be returned to the federal government and shall pay the other fifty per cent of the balance to the department of ~~human~~ job and family services.

(D) Recovery of medical assistance benefits incorrectly paid to a recipient may not be accomplished by reducing the amount of benefits the recipient is entitled to receive under another government assistance program.

(E) The remedies provided pursuant to this section do not affect any other remedies county departments of ~~human~~ job and family services may have to recover benefits incorrectly paid on behalf of recipients of medical assistance.

Sec. 5111.121. (A) As used in this section, "third party" has the same meaning as in section 5101.571 of the Revised Code.

(B) In addition to the authority granted under section 5101.59 of the Revised Code, the department of ~~human~~ job and family services may, to the extent necessary to reimburse its costs, garnish the wages, salary, or other employment income of, and withhold amounts from state tax refunds to, any person to whom both of the following apply:

(1) The person is required by a court or administrative order to provide coverage of the cost of health care services to a child eligible for medical assistance under this chapter.

(2) The person has received payment from a third party for the costs of such services but has not used the payment to reimburse either the other parent or guardian of the child or the provider of the services.

(C) Claims for current and past due child support shall take priority over claims under division (B) of this section.

Sec. 5111.13. (A) As used in this section, "cost-effective" and "group health plan" have the same meanings as in section 1906 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396e, as amended, and any regulations adopted under that section.

(B) The department of ~~human~~ job and family services, pursuant to guidelines issued by the United States secretary of health and human services, shall identify cases in which enrollment of an individual otherwise

eligible for medical assistance under this chapter in a group health plan in which the individual is eligible to enroll and payment of the individual's premiums, deductibles, coinsurance, and other cost-sharing expenses is cost effective.

The department shall require, as a condition of eligibility for medical assistance, individuals identified under this division, or in the case of a child, the child's parent, to apply for enrollment in the group health plan, except that the failure of a parent to enroll ~~himself~~ self or ~~his~~ the parent's child in a group health plan does not affect the child's eligibility under the medical assistance program.

The department shall pay enrollee premiums and deductibles, coinsurance, and other cost-sharing obligations for services and items otherwise covered under the medical assistance program. The department shall treat coverage under the group health plan in the same manner as any other third-party liability under the program. If not all members of a family are eligible for medical assistance and enrollment of the eligible members in a group health plan is not possible without also enrolling the members who are ineligible for medical assistance, the department shall pay the premiums for the ineligible members if the payments are cost effective. The department shall not pay deductibles, coinsurance, or other cost-sharing obligations of enrolled members who are not eligible for medical assistance.

The department may make payments under this section to employers, insurers, or other entities. The department may make the payments without entering into a contract with employers, insurers, or other entities.

(C) To the extent permitted by federal law and regulations, the department of ~~human~~ job and family services shall coordinate the medical assistance program with group health plans in such a manner that the medical assistance program serves as a supplement to the group health plans. In its coordination efforts, the department shall consider cost-effectiveness and quality of care. The department may enter into agreements with group health plans as necessary to implement this division.

(D) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.14. The ~~state~~ department of ~~human~~ job and family services may require county departments of ~~human~~ job and family services to provide case management of nonemergency transportation services provided under the medical assistance program. County departments shall provide the case management if required by the ~~state~~ department in accordance with rules adopted by the ~~state department~~ director of job and family services.

The ~~state~~ department shall determine, for the purposes of claiming federal reimbursement under the medical assistance program, whether it will claim expenditures for nonemergency transportation services as administrative or program expenditures.

Sec. 5111.16. In accordance with subsection (g) of section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 U.S.C.A. 1396r-8(g), as amended, the department of ~~human~~ job and family services shall establish an outpatient drug use review program to assure that prescriptions obtained by recipients of medical assistance under this chapter are appropriate, medically necessary, and unlikely to cause adverse medical results.

Sec. 5111.17. (A) As used in this section, "community-based clinic" means a clinic that provides prenatal, family planning, well child, or primary care services and is funded in whole or in part by the state or federal government.

(B) On receipt of a waiver from the United States department of health and human services of any federal requirement that would otherwise be violated, the department of ~~human~~ job and family services shall establish in Franklin, Hamilton, and Lucas counties a managed care system under which designated recipients of medical assistance are required to obtain medical services from providers designated by the department. The department may stagger implementation of the managed care system, but the system shall be implemented in at least one county not later than January 1, 1995, and in all three counties not later than July 1, 1996.

(C) The department, by rule adopted under this section, may require any recipients in any other county to receive all or some of their care through managed care organizations that contract with the department and are paid by the department pursuant to a capitation or other risk-based methodology prescribed in the rules, and to receive their care only from providers designated by the organizations.

(D) In accordance with rules adopted under division (G) of this section, the department may issue requests for proposals from managed care organizations interested in contracting with the department to provide managed care to participating medical assistance recipients.

(E) A health insuring corporation under contract with the department under this section may enter into an agreement with any community-based clinic for the provision of medical services to medical assistance recipients participating in the managed care system if the clinic is willing to accept the terms, conditions, and payment procedures established by the health insuring corporation.

(F) For the purpose of determining the amount the department pays

hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, each managed care organization under contract with the department to provide managed care to participating medical assistance recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the care, payments made by the organization to the hospital for the care, utilization of hospital services by medical assistance recipients participating in managed care, and other utilization data required by the department.

(G) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.173. (A) There is hereby created the medicaid managed care study committee to examine the medicaid managed care program established by section 5111.17 of the Revised Code. The committee shall review the status of the program and may study the following: consumer access and satisfaction, reimbursement issues, recent trends in the medicaid managed care market, alternative managed care delivery models, and future plans and recommendations for the program.

(B) Membership of the study committee shall include:

(1) Two members of the senate appointed by the president of the senate, one from the majority party and one from the minority party;

(2) Two members of the house of representatives appointed by the speaker of the house of representatives, one from the majority party and one from the minority party;

(3) The following members jointly appointed by the governor, the speaker of the house of representatives, and the president of the senate:

(a) One representative of the governor's office;

(b) One representative of the Ohio department of ~~human~~ job and family services;

(c) One representative of the Ohio department of insurance;

(d) One representative of the office of budget and management;

(e) Two representatives of the Ohio medical care advisory committee representing consumer interests;

(f) One representative from a county department of ~~human~~ job and family services in a county in which medicaid recipients are required to obtain medical services from a managed care organization;

(g) Two representatives of the institutional provider community;

(h) Two representatives from the community provider community;

(i) Two representatives of entities that provide medicaid managed care.

(C) The majority party members from the house of representatives and the senate shall serve as co-chairs of the study committee. The committee shall meet at the call of the co-chairs.

(D) Members of the study committee shall serve without compensation or reimbursement, except to the extent that serving on the committee is considered a part of their regular duties of employment.

(E) Not later than December 31, 1999, the study committee shall complete its examination and submit a report to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The legislative budget office of the legislative service commission shall serve as staff to the study committee. On submission of the report, the study committee shall cease to exist.

Sec. 5111.18. (A) As used in this section and in section 5111.181 of the Revised Code, "resources" has the meaning given in rules adopted under division (B) of section 5111.011 of the Revised Code.

(B) If it determines that such action would not violate any federal statute or regulation or receives from the United States department of health and human services a waiver of any federal requirement that would otherwise be violated, the department of ~~human~~ job and family services shall establish the Ohio long-term care insurance program, unless the director of ~~human~~ job and family services determines that appropriations made by the general assembly for the program are not sufficient to operate and evaluate the program. If established, the program shall begin not sooner than July 1, 1994.

Notwithstanding sections 5101.58, 5101.59, 5111.01, 5111.11, and divisions (C) and (F) of section 5111.011 of the Revised Code, the resources of an individual covered by a long-term care insurance policy described in division (C)(1) or (2) of this section shall be excluded in accordance with division (C) of this section from any determination of the individual's eligibility for the medical assistance program and from determination of any amount to be recovered by the state for payments under the medical assistance program for services correctly provided to the individual.

Resources excluded under this division are not subject to recovery under section 5101.58, to assignment under section 5101.59, or to a lien under section 5111.111 of the Revised Code. Divisions (D) and (E) of section 5111.011 of the Revised Code continue to apply to the resources of individuals covered by certified policies that are not resources excluded under this section.

(C) The exclusion provided by division (B) of this section shall apply

throughout the life of the covered individual. The department of ~~human~~ job and family services shall exclude resources in amounts equal to long-term care insurance benefits paid under either of the following that are used to pay for services rendered on or after the date the Ohio long-term care insurance program begins that are covered by the medical assistance program:

(1) Any long-term care insurance policy or certificate delivered or issued for delivery prior to the date the program begins;

(2) A long-term care insurance policy or certificate delivered or issued for delivery on or after the date the program begins that meets the requirements in section 3923.50 of the Revised Code.

The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing procedures for insurers to notify the department of long-term care benefits paid.

Sec. 5111.181. (A) The general assembly hereby finds that the state has an insurable interest in medical assistance recipients because of the state's statutory right to recover from the estate of a recipient state funds used to provide the recipient with medical care and services.

(B) As used in this section:

(1) "Beneficiary" means the person or entity designated in a life insurance policy to receive the proceeds of the policy on the death of the insured or maturity of the policy.

(2) "Owner" means the person who has the right to designate the beneficiary of a life insurance policy and to change the designation.

(C) Notwithstanding section 5111.011 of the Revised Code, the value of a life insurance policy that would otherwise be considered a resource in determining eligibility for the medical assistance program shall be excluded from any determination of a person's eligibility for the medical assistance program if the owner designates the department of ~~human~~ job and family services as beneficiary of the policy. The department may pay premiums to keep the policy in force. Premiums paid by the department are medical assistance payments correctly paid on behalf of a medical assistance recipient and subject to recovery under section 5111.11 of the Revised Code.

(D) The director of ~~human~~ job and family services shall deposit the proceeds of a life insurance policy that do not exceed the amount the department may recover against the property and estate of the owner under section 5111.11 of the Revised Code into the general revenue fund. The director shall pay any remaining proceeds to the person designated by the

owner. If the owner failed to designate a person, the director shall pay the remaining proceeds to the surviving spouse, or, if there is no surviving spouse, to the estate of the owner.

(E) If the owner designates the department of ~~human~~ job and family services as the policy's beneficiary, the department shall notify the owner that ~~he~~ the owner may designate a person to receive proceeds of the policy that exceed the amount the department may recover against the owner's property and estate under section 5111.11 of the Revised Code. The designation shall be made on a form provided by the department.

(F) The department of ~~human~~ job and family services shall not implement this section if implementation would violate any federal requirement unless the department receives a waiver of the requirement from the United States department of health and human services.

Sec. 5111.19. The ~~department~~ director of ~~human~~ job and family services shall adopt rules governing the calculation and payment of graduate medical education costs associated with services rendered to recipients of the medical assistance program after June 30, 1994. The rules shall provide for reimbursement of graduate medical education costs associated with services rendered to medical assistance recipients, including recipients enrolled in health insuring corporations, that the department determines are allowable and reasonable.

If the department requires a health insuring corporation to pay a provider for graduate medical education costs associated with the delivery of services to medical assistance recipients enrolled in the corporation, the department shall include in its payment to the corporation an amount sufficient for the corporation to pay such costs. If the department does not include in its payments to the health insuring corporation amounts for graduate medical education costs of providers, all of the following apply:

(A) The department shall pay the provider for graduate medical education costs associated with the delivery of services to medical assistance recipients enrolled in the corporation;

(B) No provider shall seek reimbursement from the corporation for such costs;

(C) The corporation is not required to pay providers for such costs.

Sec. 5111.20. As used in sections 5111.20 to 5111.32 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of ~~human~~ job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Capital costs" means costs of ownership and nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;

(iii) Equipment;

(iv) Extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (I) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.

(C) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(D) "Case-mix score" means the measure determined under section 5111.231 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(E) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date

of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(F) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(G) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (G)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (G)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;

(b) Costs of training and staff development, employee benefits, payroll

taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in division (G)(2)(a) of this section.

(3) Costs of other direct-care resources that are specified as direct care costs in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with Chapter 119. of the Revised Code.

(H) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(I) "Indirect care costs" means all reasonable costs other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in this division. Notwithstanding division (B)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(J) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(K) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance

with applicable standards for the medical assistance program by the director of health in accordance with Title XIX of the "Social Security Act."

(L) "Maintenance and repair expenses" means, except as provided in division (X)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(M) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is certified as a skilled nursing facility by the director in accordance with Title XVIII of the "Social Security Act."

(N) "Other protected costs" means costs for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with Chapter 119. of the Revised Code.

(O) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in a nursing facility or intermediate care facility for the mentally retarded.

(P) "Patient" includes "resident."

(Q) Except as provided in divisions (Q)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.24 or 5111.241 of the Revised Code, "per diem" means a facility's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.25 or 5111.251 of the Revised Code, "per diem" means a

facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(R) "Provider" means a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under a provider agreement.

(S) "Provider agreement" means a contract between the department of ~~human~~ job and family services and a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medical assistance program.

(T) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(U) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(V) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(W) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Step-parent, step-child, step-brother, or step-sister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster parent, foster child, foster brother, or foster sister.

(X) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the ~~department~~ director of ~~human~~ job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of nursing facilities and intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of

additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (X)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of ~~human~~ job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

Sec. 5111.202. (A) As used in this section:

(1) "Dementia" includes Alzheimer's disease or a related disorder.

(2) "Serious mental illness" means "serious mental illness," as defined by the United States department of health and human services in regulations adopted under section 1919(e)(7)(G)(i) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(3) "Mentally ill individual" means an individual who has a serious mental illness other than either of the following:

(a) A primary diagnosis of dementia;

(b) A primary diagnosis that is not a primary diagnosis of dementia and a primary diagnosis of something other than a serious mental illness.

(4) "Mentally retarded individual" means an individual who is mentally retarded or has a related condition, as described in section 1905(d) of the "Social Security Act."

(5) "Specialized services" means the services specified by the United States department of health and human services in regulations adopted under section 1919(e)(7)(G)(iii) of the "Social Security Act."

(B)(1) Except as provided in division (D) of this section, no nursing facility shall admit as a resident any mentally ill individual unless the facility has received evidence that the department of mental health has determined both of the following under section 5119.061 of the Revised Code:

(a) That the individual requires the level of services provided by a

nursing facility because of the individual's physical and mental condition;

(b) Whether the individual requires specialized services for mental illness.

(2) Except as provided in division (D) of this section, no nursing facility shall admit as a resident any mentally retarded individual unless the facility has received evidence that the department of mental retardation and developmental disabilities has determined both of the following under section 5123.021 of the Revised Code:

(a) That the individual requires the level of services provided by a nursing facility because of the individual's physical and mental condition;

(b) Whether the individual requires specialized services for mental retardation.

(C) The department of ~~human~~ job and family services shall not make payments under the medical assistance program to a nursing facility on behalf of any individual who is admitted to the facility in violation of division (B) of this section for the period beginning on the date of admission and ending on the date the requirements of division (B) of this section are met.

(D) A determination under division (B) of this section is not required for any individual who is exempted from the requirement that a determination be made by division (B)(2) of section 5119.061 of the Revised Code or rules adopted by the department of mental health under division (E)(3) of that section, or by division (B)(2) of section 5123.021 of the Revised Code or rules adopted by the department of mental retardation and developmental disabilities under division (E)(3) of that section.

Sec. 5111.203. Regardless of whether or not ~~he~~ an applicant for admission to a nursing facility or resident of a nursing facility is an applicant for or recipient of medical assistance, the department of ~~human~~ job and family services shall provide notice and an opportunity for a hearing to any applicant for admission to a nursing facility or resident of a nursing facility who is adversely affected by a determination made by the department of mental health under section 5119.061 of the Revised Code or by the department of mental retardation and developmental disabilities under section 5123.021 of the Revised Code. The hearing shall be conducted in the same manner as hearings conducted under section 5101.35 of the Revised Code. Any decision made by the department of ~~human~~ job and family services on the basis of the hearing is binding on the department of mental health and the department of mental retardation and developmental disabilities.

Sec. 5111.204. (A) As used in this section and in section 5111.205 of

the Revised Code, "representative" means a person acting on behalf of an applicant for or recipient of medical assistance. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient.

(B) The department of ~~human~~ job and family services may require an applicant for or recipient of medical assistance who applies or intends to apply for admission to a nursing facility to undergo an assessment to determine whether ~~he~~ the applicant or recipient needs the level of care provided by a nursing facility. To the maximum extent possible, the assessment shall be based on information from the resident assessment instrument specified in rules adopted by the ~~department~~ director of job and family services under division (A) of section 5111.231 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules adopted under division (H) of this section and information provided by the person being assessed or ~~his~~ the person's representative. The department of ~~human~~ job and family services, or if the assessment is performed by another agency designated under section 5101.754 of the Revised Code, the agency, shall, not later than the time the assessment is required to be performed under division (C) of this section, give written notice of its conclusions and the basis for them to the person assessed and, if the department of ~~human~~ job and family services or designated entity has been informed that the person has a representative, to the representative.

(C) The department of ~~human~~ job and family services or designated agency, whichever performs the assessment, shall perform a complete assessment, or, if circumstances provided by rules adopted under division (H) of this section exist, a partial assessment, as follows:

(1) In the case of a person applying or intending to apply to a nursing facility while hospitalized, not later than one of the following:

(a) One working day after the person or ~~his~~ the person's representative submits an application for admission to the nursing facility or notifies the department of the person's intention to apply;

(b) A later date requested by the person or ~~his~~ the person's representative.

(2) In the case of an emergency as determined in accordance with rules adopted under division (H) of this section, not later than one calendar day after the person or ~~his~~ the person's representative submits the application or notifies the department of ~~his~~ the person's intention to apply.

(3) In all other cases, not later than one of the following:

(a) Five calendar days after the person or ~~his~~ the person's representative submits the application or notifies the department of the person's intention to

apply;

(b) A later date requested by the person or ~~his~~ the person's representative.

(D) If the department of ~~human~~ job and family services or designated agency conducts a partial assessment under division (C) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the department or designated agency determines the person should be exempt from the assessment.

(E) A person is not required to be assessed under this section if the circumstances specified by rule adopted under division (H) of this section exist or the department of ~~human~~ job and family services or designated agency determines after a partial assessment that the person should be exempt from the assessment.

(F) A person assessed under this section or the person's representative may appeal the conclusions reached by the department of ~~human~~ job and family services or designated agency on the basis of the assessment. The appeal shall be made in accordance with section 5101.35 of the Revised Code. The department of ~~human~~ job and family services or designated agency, whichever performs the assessment, shall provide to the person or ~~his~~ the person's representative and the nursing facility written notice of the person's right to appeal. The notice shall include an explanation of the procedure for filing an appeal.

(G) A nursing facility that admits or retains a person determined pursuant to an assessment required under division (B) or (C) of this section not to need the level of care provided by the nursing facility shall not be reimbursed under the medical assistance program for the person's care.

(H) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this section. The rules shall include all of the following:

(1) Criteria and procedures to be used in determining whether admission to a nursing facility is appropriate for the person being assessed. The criteria shall include consideration of whether the person is in need of any of the following:

(a) Nursing or rehabilitation services;

(b) Assistance with two or more of the activities of daily living;

(c) Continuous supervision to prevent harm to the person as a result of cognitive impairment.

(2) Information the person being assessed or ~~his~~ the person's

ive must provide to the department or designated agency for purposes of the assessment;

(3) Circumstances under which the department of ~~human~~ job and family services or designated agency may perform a partial assessment under division (C) of this section;

(4) Circumstances under which a person is not required to be assessed.

Sec. 5111.205. If the recommendation resulting from an assessment made under section 5111.204 of the Revised Code is that home and community-based services are appropriate for the person assessed, the department of ~~human~~ job and family services or agency designated under section 5101.754 of the Revised Code, whichever performed the assessment, may develop a plan in consultation with the person or ~~his~~ the person's representative for provision of home and community-based services to that person. If a plan is developed, the department or designated agency shall implement the plan agreed to by the person or ~~his~~ the person's representative not later than one working day after the plan is agreed to unless the person or representative agrees to a later implementation date.

Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 5111.012, and 5111.02 of the Revised Code, the department of ~~human~~ job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.

In order to be eligible for medical assistance payments, a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Comply with all applicable state and federal laws and rules.

(B) A nursing facility that elects to obtain and maintain eligibility for payments under the medicare program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may qualify all or part of the facility in the medicare program.

Sec. 5111.22. A provider agreement between the department of ~~human~~ job and family services and a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions:

(A) The department agrees to:

(1) Make payments to the nursing facility or intermediate care facility

for the mentally retarded for patients eligible for services under the medical assistance program as provided in sections 5111.20 to 5111.32 of the Revised Code. Payments shall be made no later than the fifteenth day of the month following a month in which care and services are provided to recipients of medical assistance. Such payments shall be retroactive to the first day of the month in which an application for benefits is made or the day a recipient of medical assistance is admitted to the facility. In the case of newly admitted recipients of medical assistance, the first payment shall be made no later than sixty days following the date of authorized admission. No payment shall be made for the day a recipient is discharged from the facility.

(2) Provide copies of ~~department~~ rules governing the facility's participation as a provider in the medical assistance program. Whenever the ~~department~~ director of job and family services files a proposed rule or proposed rule in revised form under division (D) of section 111.15 or division (B) of section 119.03 of the Revised Code, the department shall provide the facility with one copy of such rule. In the case of a rescission or proposed rescission of a rule, the department may provide the rule number and title instead of the rules rescinded or proposed to be rescinded.

(B) The provider agrees to:

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to patients who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term,

it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of ~~human~~ job and family services, in accordance with rules adopted by the director pursuant to Chapter 119. of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of the recipients or of the state.

Sec. 5111.221. The department of ~~human~~ job and family services shall make its best efforts each year to calculate rates under sections 5111.23 to 5111.29 of the Revised Code in time to use them to make the payments due to nursing facilities and intermediate care facilities for the mentally retarded by the fifteenth day of August. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each facility the rate calculated for it under those sections at the end of the previous fiscal year. If the department also is unable to calculate the rates to make the payments due by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid to any facility pursuant to this section at the request of the facility. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.

If the rate paid to a facility pursuant to this section is lower than the rate calculated for it for the current fiscal year, the department shall pay the facility the difference between the two rates for the number of days for which the facility was paid pursuant to this section. If the rate paid to a facility pursuant to this section is higher than the rate calculated for it for the current fiscal year, the facility shall refund to the department the difference between the two rates for the number of days for which the facility was paid pursuant to this section.

Sec. 5111.23. (A) The department of ~~human~~ job and family services shall pay each eligible nursing facility and intermediate care facility for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. Except as provided in division (C)(2) of this section, the department shall establish each facility's rate for direct care costs quarterly.

(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year

preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.231 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of nursing facilities specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(1) of this section.

(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(2) of this section.

(c) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(3) of this section.

(d) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) to (c) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medical assistance program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the

employment cost index for total compensation, health services component, published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division (D) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.231 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (C)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

(D)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all nursing facilities that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty-five per cent of the medicaid inpatient days for nursing facilities for calendar year 1992.

(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid

inpatient days for such facilities for calendar year 1992.

(3) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

(E) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify peer groups of nursing facilities, intermediate care facilities for the mentally retarded with more than eight beds, and intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include, in the case of intermediate care facilities for the mentally retarded, case-mix.

(F) The department, in accordance with division (C) of section 5111.231 of the Revised Code and rules adopted under division (D) of that section, may assign case-mix scores or costs per case-mix unit if a facility fails to submit assessment information necessary to calculate its case-mix score in accordance with that section.

Sec. 5111.231. (A)(1) The department of ~~human~~ job and family services shall determine case-mix scores for nursing facilities using data for each resident, regardless of payment source, from a resident assessment instrument specified in rules adopted in accordance with Chapter 119. of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, and the case-mix values established by the United States department of health and human services. Except as modified in rules adopted under division (A)(1)(c) of this section, the department also shall use the grouper methodology used on ~~the effective date of this amendment~~ June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The ~~department~~ director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code that do any of the following:

(a) Adjust the case-mix values to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of the case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(c) Modify the grouper methodology as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after ~~the effective date of this amendment~~ June 30, 1999;

(iv) Make other changes the medicaid long-term care reimbursement study council established by section 5111.34 of the Revised Code approves.

(2) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted in accordance with Chapter 119. of the Revised Code and expressed in case-mix values established by the department in those rules. The department may change the grouper methodology prescribed in rules in effect on ~~the effective date of this amendment~~ June 30, 1999, only if the medicaid long-term care reimbursement study council approves the change.

(B) Not later than fifteen days after the end of each calendar quarter, each nursing facility and intermediate care facility for the mentally retarded shall submit to the department the complete assessment data, from the instrument specified in rules adopted under division (A) of this section, for each resident, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter.

Except as provided in division (C) of this section, the department, after the end of each calendar year and pursuant to procedures specified in rules adopted in accordance with Chapter 119. of the Revised Code, shall calculate an annual average case-mix score for each nursing facility and intermediate care facility for the mentally retarded using the facility's quarterly case-mix scores for that calendar year.

(C)(1) If a facility does not timely submit information for a calendar quarter necessary to calculate its case-mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case-mix score that is five per cent less than the facility's quarterly average case-mix score for the preceding calendar quarter. If the facility was subject to an exception review under division (C)

of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division (C)(1) of this section, instead of a quarterly average case-mix score calculated based on the facility's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 of the Revised Code for one or more months, as specified in rules adopted under division (D) of this section, of the quarter for which the rate established under section 5111.23 of the Revised Code will be paid.

Before taking action under division (C)(1) of this section, the department shall permit the facility a reasonable period of time, specified in rules adopted under division (D) of this section, to correct the information. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the facility fails to submit corrected information prior to the eighty-first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the facility fails to submit corrected information prior to the earlier of the eighty-first day after the end of the calendar quarter to which the information pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX of the Social Security Act.

(2) If a facility is paid a rate calculated using a quarterly average case-mix score assigned under division (C)(1) of this section for more than six months in a calendar year, the department may assign the facility a cost per case-mix unit that is five per cent less than the facility's actual or assigned cost per case-mix unit for the preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating the facility's actual cost per case-mix unit in accordance with section 5111.23 of the Revised Code, to establish the facility's rate for direct care costs for the following fiscal year.

(3) The department shall take action under division (C)(1) or (2) of this section only in accordance with rules adopted under division (D) of this section. The department shall not take an action that affects rates for prior

payment periods except in accordance with sections 5111.27 and 5111.28 of the Revised Code.

(D) The ~~department~~ director may adopt rules in accordance with Chapter 119. of the Revised Code that do any of the following:

(1) Specify the medium or media through which the completed assessment information shall be submitted;

(2) Establish procedures under which the department will review assessment information for accuracy and notify the facility of any information that requires correction;

(3) Establish procedures for facilities to correct assessment information. The procedures may prohibit an intermediate care facility for the mentally retarded from submitting corrected assessment information, for the purpose of calculating its annual average case-mix score, more than two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the thirty-first day of December, after the thirty-first day of the following March. The procedures may limit the content of corrections by nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX of the Social Security Act and prohibit a nursing facility from submitting corrected assessment information, for the purpose of calculating its annual average case-mix score, more than the earlier of the following:

(a) Two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the thirty-first day of December, after the thirty-first day of the following March;

(b) The deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX of the Social Security Act.

(4) Specify when and how the department will assign case-mix scores or costs per case-mix unit under division (C) of this section if information necessary to calculate the facility's average annual or quarterly case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to 5111.32 of the Revised Code, the rules also may provide for exclusion of case-mix scores assigned under division (C) of this section from calculation of the facility's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group.

Sec. 5111.235. The department of ~~human~~ job and family services shall pay each eligible nursing facility and intermediate care facility for the

mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted, except for franchise permit fees paid under section 3721.53 of the Revised Code, for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.

Sec. 5111.24. (A) The department of ~~human~~ job and family services shall pay each eligible nursing facility a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each nursing facility shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years, the difference between the maximum rate established for the facility's peer group under division (B) of this section and the median, actual, allowable, per diem indirect care costs for the facility's peer group;

(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.

(B) The maximum rate for indirect care costs for each peer group of nursing facilities specified in rules adopted under division (D) of this section shall be determined as follows:

(1) For fiscal years that end in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is twelve and one-half per cent above the desk-reviewed, actual, allowable, per diem indirect care cost of the facility in the peer group that has the group's median

medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section. In determining the maximum rate for each peer group, the department shall exclude from its calculations both of the following:

(a) Facilities in the group that participated in the medical assistance program under the same operator for less than twelve months in the calendar year preceding the fiscal year in which the rate will be paid;

(b) Facilities in the group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all nursing facilities for the calendar year preceding the fiscal year in which the rate will be paid.

(2) For fiscal years that end in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A) and (B)(1) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(2) When adjusting rates for inflation under division (B)(2) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(3) If an inflation rate estimated under division (C)(1) or (2) of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or

btracted from the inflation rate estimated for the same purpose pursuant to this division for the following fiscal year.

(D) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify peer groups of nursing facilities based on findings of significant per diem indirect care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors.

Sec. 5111.241. (A) The department of ~~human~~ job and family services shall pay each eligible intermediate care facility for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.

(B)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds in the group, excluding

facilities in the group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years ending in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(2) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds in the group, excluding facilities in the group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years that end in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which

the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(2) When adjusting rates for inflation under divisions (B)(1)(b) and (B)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(3) If an inflation rate estimated under division (C)(1) or (2) of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this division for the following fiscal year.

(D) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds, and peer groups of intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem indirect care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors, including case-mix.

Sec. 5111.25. (A) The department of ~~human~~ job and family services shall pay each eligible nursing facility a per resident per day rate for its reasonable capital costs established prospectively each fiscal year for each facility. Except as otherwise provided in sections 5111.20 to 5111.32 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of divisions (A)(1) to (3) of this section:

(1) The lesser of the following:

(a) Eighty-eight and sixty-five one-hundredths per cent of the facility's desk-reviewed, actual, allowable, per diem cost of ownership and eighty-five per cent of the facility's actual, allowable, per diem cost of nonextensive renovation determined under division (F) of this section;

(b) Eighty-eight and sixty-five one-hundredths per cent of the following limitation:

(i) For the fiscal year beginning July 1, 1993, sixteen dollars per

resident day;

(ii) For the fiscal year beginning July 1, 1994, sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve-month period beginning July 1, 1992, and ending June 30, 1993, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(iii) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve-month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(2) Any efficiency incentive determined under division (D) of this section;

(3) Any amounts for return on equity determined under division (H) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted by the ~~department~~ director of job and family services in accordance with Chapter 119. of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules adopted under this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in cost of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.32 of the Revised Code is used to reimburse the government agency.

(B) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) For purposes of calculating the rate to be paid for the fiscal year beginning July 1, 1993, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis shall be equal to the following:

(a) For facilities that have not had a change of ownership during the period beginning January 1, 1993, and ending June 30, 1993, the desk-reviewed, actual, allowable capital cost basis that is listed on the facility's cost report for the cost reporting period ending December 31, 1992, plus the actual, allowable capital cost basis of any assets constructed or

acquired after December 31, 1992, but before July 1, 1993, if the aggregate capital costs of those assets would increase the facility's rate for capital costs by twenty or more cents per resident per day.

(b) For facilities that have a date of licensure or had a change of ownership during the period beginning January 1, 1993, and ending June 30, 1993, the actual, allowable capital cost basis of the person or government entity that owns the facility on June 30, 1993.

Capital cost basis shall be calculated as provided in division (B)(1) of this section subject to approval by the United States health care financing administration of any necessary amendment to the state plan for providing medical assistance.

The department shall include the actual, allowable capital cost basis of assets constructed or acquired during the period beginning January 1, 1993, and ending June 30, 1993, in the calculation for the facility's rate effective July 1, 1993, if the aggregate capital costs of the assets would increase the facility's rate by twenty or more cents per resident per day and the facility provides the department with sufficient documentation of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the documentation.

(2) Except as provided in division (B)(4) of this section, for purposes of calculating the rates to be paid for fiscal years beginning after June 30, 1994, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(3) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, except as otherwise provided in sections 5111.20 to 5111.32 of the Revised Code.

(4) Except as provided in division (B)(5) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties. If the providers are not related parties or if they are related parties and division (B)(5) of this section requires the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time that the

transferor held the asset, as calculated by the department of ~~human~~ job and family services using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(5) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (B)(4) of this section for a transfer to a provider that is not a related party if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) The provider making the transfer retains no ownership interest in the facility;

(c) The United States internal revenue service has issued a ruling that the transfer is an arm's length transaction for purposes of federal income taxation;

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (B)(5) of this section or actual, allowable cost of ownership was determined most recently under division (C)(9) of this section.

(C) As used in this division, "lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease. As used in this division, "new lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable cost of ownership during the term of the existing lease. The entire lease expense also is an actual, allowable cost of ownership if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was in existence but not operated under a lease

on May 27, 1992, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable cost of ownership shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of the lessor, adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north

central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to the limitation specified in division (A)(1) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to the limitation specified in division (A)(1) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (C)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be adjusted by the lesser of the following for purposes of calculating the annual amount under division (C)(2), (3), (4), or (6) of this section:

(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (C)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (C)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable cost of ownership attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (C)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party, the related party's actual, allowable cost of ownership shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable cost of ownership shall include the annual lease expense, subject to the limitations specified in divisions (C)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is in only the real property and any improvements on the real property;

(c) The United States internal revenue service has issued a ruling that the lease is an arm's length transaction for purposes of federal income taxation;

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (B)(5) of this section or actual, allowable cost of ownership was determined most recently under division (C)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

(D)(1) Subject to division (D)(2) of this section, the department shall pay each nursing facility an efficiency incentive that is equal to fifty per cent of the difference between the following:

(a) Eighty-eight and sixty-five one-hundredths per cent of the facility's desk-reviewed, actual, allowable, per diem cost of ownership;

(b) The applicable amount specified in division (E) of this section.

(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:

(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;

(b) Three dollars per resident per day, adjusted annually for rates paid beginning July 1, 1994, for the inflation rate for the twelve-month period

beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(3) For purposes of calculating the efficiency incentive, depreciation for costs that are paid or reimbursed by any government agency shall be considered as costs of ownership, and renovation costs that are paid under division (F) of this section shall not be considered costs of ownership.

(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:

(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty-four cents per patient day;

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:

(a) Five dollars and twenty-four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Four dollars and twenty-four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976:

(a) Six dollars and twenty-four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Five dollars and twenty-four cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeded three thousand five hundred dollars per bed;

(c) Four dollars and twenty-four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979:

(a) Seven dollars and twenty-four cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;

(b) Six dollars and twenty-four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed;

(c) Five dollars and twenty-four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;

(d) Four dollars and twenty-four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:

(a) Seven dollars and seventy-four cents per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Seven dollars and twenty-four cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeded six thousand eight hundred dollars per bed;

(c) Six dollars and twenty-four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;

(d) Five dollars and twenty-four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeded three thousand five hundred dollars per bed;

(e) Four dollars and twenty-four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:

(a) For facilities with construction costs less than seven thousand six hundred twenty-five dollars per bed, the applicable amounts for the construction costs specified in divisions (E)(5)(b) to (e) of this section;

(b) For facilities with construction costs of seven thousand six hundred twenty-five dollars or more per bed, six dollars per patient day, provided that for 1981 and annually thereafter prior to December 22, 1992, department shall do both of the following to the six-dollar amount:

(i) Adjust the amount for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, using 1980 as the base year;

(ii) Increase the amount, as adjusted for inflation under division (E)(6)(b)(i) of this section, by one dollar and seventy-four cents.

(7) For facilities with dates of licensure on or after January 1, 1992, seven dollars and ninety-seven cents, adjusted for fluctuations in construction costs between 1991 and 1993 as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, and then increased by one dollar and seventy-four cents.

For the fiscal year that begins July 1, 1994, each of the amounts listed in divisions (E)(1) to (7) of this section shall be increased by twenty-five cents. For the fiscal year that begins July 1, 1995, each of those amounts shall be

increased by an additional twenty-five cents. For subsequent fiscal years, each of those amounts, as increased for the prior fiscal year, shall be adjusted to reflect the rate of inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

If the amount established for a nursing facility under this division is less than the amount that applied to the facility under division (B) of former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the amount used to calculate the efficiency incentive for the facility under division (D)(2) of this section shall be the amount that was calculated under division (B) of the former section.

(F) Beginning July 1, 1993, regardless of the facility's date of licensure or the date of the nonextensive renovations, the rate for the costs of nonextensive renovations for nursing facilities shall be eighty-five per cent of the desk-reviewed, actual, allowable, per diem, nonextensive renovation costs. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

(1) For a nonextensive renovation made after July 1, 1993, to qualify for payment under this division, both of the following conditions must be met:

(a) At least five years have elapsed since the date of licensure of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(b) The provider has obtained prior approval from the department of ~~human~~ job and family services, and if required the director of health has granted a certificate of need for the renovation under section 3702.52 of the Revised Code. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The ~~department~~ of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project

as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of ~~human~~ job and family services unless the increase in scope is approved by the department.

(2) The payment provided for in this division is the only payment that shall be made for the costs of a nonextensive renovation. Nonextensive renovation costs shall not be included in costs of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of calculating the efficiency incentive under divisions (D) and (E) of this section.

(G) The owner of a nursing facility operating under a provider agreement shall provide written notice to the department of ~~human~~ job and family services at least forty-five days prior to entering into any contract of sale for the facility or voluntarily terminating participation in the medical assistance program. After the date on which a transaction of sale is closed, the owner shall refund to the department the amount of excess depreciation paid to the facility by the department for each year the owner has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility has received payment. If a nursing facility is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If a nursing facility is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the difference between ten and the number of years that the facility was operated under a provider agreement. If a nursing facility is sold after ten or more years of operation under a provider agreement, the owner shall not refund any excess depreciation to the department. The owner of a facility that is sold or that voluntarily terminates participation in the medical assistance program also shall refund any other amount that the department properly finds to be due after the audit conducted under this division. For the purposes of this division, "depreciation paid to the facility" means the amount paid to the nursing facility for cost of ownership pursuant to this section less any amount paid for interest costs, amortization of financing costs, and lease expenses. For the purposes of this division, "excess depreciation" is the nursing facility's depreciated basis, which is the owner's cost less accumulated depreciation, subtracted from the purchase price net of selling costs but not exceeding the amount of depreciation paid to the facility.

A cost report shall be filed with the department within ninety days after

the date on which the transaction of sale is closed or participation is voluntarily terminated. The report shall show the accumulated depreciation, the sales price, and other information required by the department. The amount of the last two monthly payments to a nursing facility made pursuant to division (A)(1) of section 5111.22 of the Revised Code before a sale or termination of participation shall be held in escrow by a bank, trust company, or savings and loan association, except that if the amount the owner will be required to refund under this section is likely to be less than the amount of the last two monthly payments, the department shall take one of the following actions instead of withholding the amount of the last two monthly payments:

(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;

(2) In the case of all other owners, withhold the amount of the last monthly payment to the nursing facility.

The department shall, within ninety days following the filing of the cost report, audit the cost report and issue an audit report to the owner. The department also may audit any other cost report that the facility has filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the nursing facility. The findings shall be subject to adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.

If a nursing facility is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination. After written notice is received from a nursing facility that a sale or termination will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating

participation at any future time.

(H) The department shall pay each eligible proprietary nursing facility a return on the facility's net equity computed at the rate of one and one-half times the average interest rate on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period, except that no facility's return on net equity shall exceed one dollar per patient day.

When calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(I) If a nursing facility would receive a lower rate for capital costs for assets in the facility's possession on July 1, 1993, under this section than it would receive under former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the facility shall receive for those assets the rate it would have received under the former section for each fiscal year beginning on or after July 1, 1993, until the rate it would receive under this section exceeds the rate it would have received under the former section. Any facility that receives a rate calculated under the former section 5111.25 of the Revised Code for assets in the facility's possession on July 1, 1993, also shall receive a rate calculated under this section for costs of any assets it constructs or acquires after July 1, 1993.

Sec. 5111.251. (A) The department of ~~human~~ job and family services shall pay each eligible intermediate care facility for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to 5111.32 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division (I) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the ~~department~~ director of job and family services in rules adopted in accordance with Chapter 119. of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of ~~human~~ job and family services. Any rules adopted under this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.32 of the Revised Code is used to reimburse the government agency.

(B) The department of ~~human~~ job and family services shall pay to each intermediate care facility for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(C) Cost of ownership payments to intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January 1, l958, not exceeding two dollars and fifty cents per patient day;

(2) For facilities with dates of licensure after December 31, l957, but prior to January 1, l968, not exceeding:

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents per patient day if the cost of construction

was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, l967, but prior to January 1, l976, not exceeding:

(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, l975, but prior to January 1, l979, not exceeding:

(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For facilities with dates of licensure after December 31, l978, but prior to January 1, l980, not exceeding:

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as

residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.

(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(12) For facilities with dates of licensure after December 31, 1985, but

prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;

(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;

(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of ~~human~~ job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, l981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care

facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of ~~human~~ job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of ~~human~~ job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the facilities demonstrate that

they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of ~~human~~ job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.24 of the Revised Code, the ~~department~~ director of ~~human~~ job and family services may adopt rules in accordance with Chapter 119. of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) After June 30, 1980, the owner of an intermediate care facility for the mentally retarded operating under a provider agreement shall provide written notice to the department of ~~human~~ job and family services at least forty-five days prior to entering into any contract of sale for the facility or voluntarily terminating participation in the medical assistance program. After the date on which a transaction of sale is closed, the owner shall refund to the department the amount of excess depreciation paid to the facility by the department for each year the owner has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility has received payment. If an intermediate care facility for the mentally retarded is sold after five or fewer

years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If an intermediate care facility for the mentally retarded is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the number of years less than ten that a facility was operated under a provider agreement. If an intermediate care facility for the mentally retarded is sold after ten or more years of operation under a provider agreement, the owner shall not refund any excess depreciation to the department. For the purposes of this division, "depreciation paid to the facility" means the amount paid to the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the owner's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the facility.

A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated for an intermediate care facility for the mentally retarded subject to this division. The report shall show the accumulated depreciation, the sales price, and other information required by the department. The amount of the last two monthly payments to an intermediate care facility for the mentally retarded made pursuant to division (A)(1) of section 5111.22 of the Revised Code before a sale or voluntary termination of participation shall be held in escrow by a bank, trust company, or savings and loan association, except that if the amount the owner will be required to refund under this section is likely to be less than the amount of the last two monthly payments, the department shall take one of the following actions instead of withholding the amount of the last two monthly payments:

(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;

(2) In the case of all other owners, withhold the amount of the last monthly payment to the intermediate care facility for the mentally retarded.

The department shall, within ninety days following the filing of the cost report, audit the report and issue an audit report to the owner. The department also may audit any other cost reports for the facility that have been filed during the previous three years. In the audit report, the

department shall state its findings and the amount of any money owed to the department by the intermediate care facility for the mentally retarded. The findings shall be subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.

If an intermediate care facility for the mentally retarded is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination of participation. After written notice is received from an intermediate care facility for the mentally retarded that a sale or termination of participation will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating participation at any future time.

(I) The department of ~~human~~ job and family services shall pay each eligible proprietary intermediate care facility for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(J)(1) Except as provided in division (J)(2) of this section, if a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to (I) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains no ownership interest in the facility;

(d) The United States internal revenue service has issued a ruling that the lease or transfer is an arm's length transaction for purposes of federal income taxation;

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.252. (A) As used in this section:

(1) "Contractor" means a person or government agency that has entered into a contract with the department of mental retardation and developmental disabilities under this section.

(2) "Government agency" and "residential services" have the same meanings as in section 5123.18 of the Revised Code.

(3) "Respite care services" has the same meaning as in section 5123.171 of the Revised Code.

(B) The department of mental retardation and developmental disabilities may enter into a contract with a person or government agency to do any of the following:

(1) Provide residential services in an intermediate care facility for the mentally retarded to an individual who meets the criteria for admission to such a facility but is not eligible for assistance under this chapter due to unliquidated assets subject to final probate action;

(2) Provide respite care services in an intermediate care facility for the mentally retarded;

(3) Provide residential services in a facility for which the person or government agency has applied for, but has not received, certification and payment as an intermediate care facility for the mentally retarded if the person or government agency is making a good faith effort to bring the

facility into compliance with requirements for certification and payment as an intermediate care facility for the mentally retarded. In assigning payment amounts to such contracts, the department shall take into account costs incurred in attempting to meet certification requirements.

(4) Reimburse an intermediate care facility for the mentally retarded for costs not otherwise reimbursed under this chapter for clothing for individuals who are mentally retarded or developmentally disabled. Reimbursement under such contracts shall not exceed a maximum amount per individual per year specified in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.

(C) The amount paid to a contractor under divisions (B)(1) to (3) of this section shall not exceed the reimbursement that would be made under this chapter by the department of ~~human~~ job and family services for the same goods and services.

(D) The department of mental retardation and developmental disabilities shall adopt rules as necessary to implement this section, including rules establishing standards and procedures for the submission of cost reports by contractors and the department's conduct of audits and reconciliations regarding the contracts. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.255. (A) The department of ~~human~~ job and family services shall establish initial rates for a nursing facility or intermediate care facility for the mentally retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for a nursing facility or intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the medical assistance program on or after that date, in the following manner:

(1) The rate for direct care costs shall be determined as follows:

(a) If there are no cost or resident assessment data as necessary to calculate a rate under section 5111.23 of the Revised Code, the rate shall be the median cost per case-mix unit calculated under division (B)(1) of that section for the relevant peer group for the calendar year preceding the fiscal year in which the rate will be paid, multiplied by the median annual average case-mix score for the peer group for that period and by the rate of inflation estimated under division (B)(5) of that section. This rate shall be recalculated to reflect the facility's actual quarterly average case-mix score, in accordance with that section, after it submits its first quarterly assessment information that qualifies for use in calculating a case-mix score in accordance with rules adopted under division (D) of section 5111.231 of the

Revised Code. If the facility's first two quarterly submissions do not contain assessment information that qualifies for use in calculating a case-mix score, the department shall continue to calculate the rate using the median annual case-mix score for the peer group in lieu of an assigned quarterly case-mix score. The department shall assign a case-mix score or, if necessary, a cost per case-mix unit under division (C) of section 5111.231 of the Revised Code for any subsequent submissions that do not contain assessment information that qualifies for use in calculating a case-mix score.

(b) If the facility is a replacement facility and the facility or facilities that are being replaced are in operation immediately before the replacement facility opens, the rate shall be the same as the rate for the replaced facility or facilities, proportionate to the number of beds in each replaced facility. If one or more of the replaced facilities is not in operation immediately before the replacement facility opens, its proportion shall be determined under division (A)(1)(a) of this section.

(2) The rate for other protected costs shall be one hundred fifteen per cent of the median rate for the applicable type of facility calculated for the fiscal year under section 5111.235 of the Revised Code.

(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section 5111.24 or division (B) of section 5111.241 of the Revised Code.

(4) The rate for capital costs shall be determined under section 5111.25 or 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(B) The department shall adjust the rates established under division (A) of this section at both of the following times:

(1) Effective the first day of July, to reflect new rate calculations for all facilities under sections 5111.23 to 5111.25 and 5111.251 of the Revised Code;

(2) Following the facility's submission of its cost report under division (A)(1)(b) of section 5111.26 of the Revised Code.

The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report.

Sec. 5111.257. (A) Notwithstanding sections 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and 5111.255 of the Revised Code, the ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that establish a methodology for calculating the prospective rates for direct care costs, other protected costs, indirect care costs, and capital costs that will be

paid each fiscal year to nursing facilities and intermediate care facilities for the mentally retarded, and discrete units of nursing facilities or intermediate care facilities for the mentally retarded, that serve residents who have diagnoses or special care needs that require direct care resources that are not measured adequately by the applicable assessment instrument specified in rules adopted under section 5111.231 of the Revised Code, or who have diagnoses or special care needs specified in the rules as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established under this division may include, but shall not be limited to, any of the following:

(1) In the case of nursing facilities, facilities and units of facilities that serve medically fragile pediatric residents, residents who are dependent on ventilators, or residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome;

(2) In the case of intermediate care facilities for the mentally retarded, facilities and units of facilities that serve residents who have complex medical conditions or severe behavioral problems.

The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.

The rules adopted under this division shall specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division. The criteria shall include consideration of whether all of the allowable costs of the facility or unit would be paid by rates established under sections 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and 5111.255 of the Revised Code, and shall establish a minimum bed size for a facility or unit to qualify to have its rates established under this division. The criteria shall not be designed to require that residents be served only in facilities located in large cities. The methodology established by the rules shall consider the historical costs of providing care to the residents of the facilities or units.

The rules may require that a facility designated under this division or containing a unit designated under this division receive authorization from the department to admit or retain a resident to the facility or unit and shall specify the criteria and procedures the department will apply when granting that authorization.

Notwithstanding any other provision of sections 5111.20 to 5111.32 of the Revised Code, the costs incurred by facilities or units whose rates are established under this division shall not be considered in establishing payment rates for other facilities or units.

(B) The ~~department~~ director may adopt rules in accordance with Chapter 119. of the Revised Code under which the department, notwithstanding any other provision of sections 5111.20 to 5111.32 of the Revised Code, may adjust the rates determined under sections 5111.23 to 5111.255 of the Revised Code for a facility that serves a resident who has a diagnosis or special care need that, in the rules adopted under division (A) of this section, would qualify a facility or unit of a facility to have its rate determined under that division, but who is not in such a unit. The rules may require that a facility that qualifies for a rate adjustment under this division receive authorization from the department to admit or retain a resident who qualifies the facility for the rate adjustment and shall specify the criteria and procedures the department will apply when granting that authorization.

Sec. 5111.26. (A)(1)(a) Except as provided in division (A)(1)(b) of this section, each nursing facility and intermediate care facility for the mentally retarded shall file with the department of ~~human~~ job and family services an annual cost report prepared in accordance with guidelines established by the department. The report shall cover a calendar year or the portion of a calendar year during which the facility participated in the medical assistance program. All facilities shall file the reports within ninety days after the end of the calendar year. The department, for good cause, may grant a fourteen-day extension of the time for filing cost reports upon written request from a facility. The ~~department~~ director of job and family services shall prescribe, in rules adopted in accordance with Chapter 119. of the Revised Code, the cost reporting form and a uniform chart of accounts for the purpose of cost reporting, and shall distribute cost reporting forms or computer software for electronic submission of the cost report to each nursing facility and intermediate care facility for the mentally retarded at least sixty days before the facility's reporting date.

(b) A facility for which rates are established under section 5111.255 of the Revised Code shall submit a cost report no later than ninety days after the end of the facility's first three full calendar months of operation. A facility that opens after the first day of October in any calendar year is not required to file a cost report for that calendar year.

(2) If a nursing facility or intermediate care facility for the mentally retarded required to submit cost reports does not file the reports within the required time periods or within fourteen days thereafter if an extension is granted under division (A)(1)(a) of this section, or files an incomplete or inadequate report, the department shall provide immediate written notice to the facility that its provider agreement will be terminated in thirty days unless the facility submits a complete and adequate cost report within thirty

days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the facility shall be paid its then current per resident per day rate, minus two dollars. On July 1, 1994, the department shall adjust the two-dollar reduction to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. On July 1, 1995, and the first day of July of each year thereafter, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the same index.

(B) No nursing facility or intermediate care facility for the mentally retarded shall report fines paid under sections 5111.35 to 5111.62 or section 5111.99 of the Revised Code in any cost report filed under this section.

(C) The department shall develop an addendum to the cost report form that a nursing facility or intermediate care facility for the mentally retarded may use to set forth costs that the facility believes may be disputed by the department. Any costs reported by the facility on the addendum may be considered by the department in setting the facility's rate. If the department does not consider the costs listed on the addendum in setting the facility's rate, the facility may seek reconsideration of that determination under section 5111.29 of the Revised Code. If the department subsequently includes the costs listed in the addendum in the facility's rate, the department shall pay the facility interest at a reasonable rate established in rules adopted in accordance with Chapter 119. of the Revised Code for the time that the rate paid excluded the costs.

Sec. 5111.261. Except as otherwise provided in sections 5111.262 to 5111.264 of the Revised Code, the department of ~~human~~ job and family services, in determining whether direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, compensation of administrators and costs for resident meals that are prepared and consumed outside the facility.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on facility cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that position is listed separately on the cost report form, or if the position is not listed separately, the group of positions that is listed on the cost report form and that includes

the position held by the owner or the owner's relative. In the case of an owner or owner's relative who serves the facility in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted by the ~~department~~ director of job and family services in accordance with Chapter 119. of the Revised Code.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on facility cost reports. Compensation cost limits for administrators of four or more intermediate care facilities for the mentally retarded shall be the same as the limits for administrators of nursing facilities or intermediate care facilities for the mentally retarded with one hundred fifty or more beds.

For nursing facilities, cost limits for resident meals that are prepared and consumed outside the facility shall be based on the statewide average cost of serving and preparing meals in all nursing facilities, as reported on the facility cost reports. For intermediate care facilities for the mentally retarded, cost limits for resident meals that are prepared and consumed outside the facility shall be based on the statewide average cost of serving and preparing meals in all intermediate care facilities for the mentally retarded, as reported on the facility cost reports.

Sec. 5111.263. (A) As used in this section, "covered therapy services" means physical therapy, occupational therapy, audiology, and speech therapy services that are provided by appropriately licensed therapists or therapy assistants and that are covered for nursing facility residents either by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the medical assistance program as specified in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with Chapter 119. of the Revised Code.

(B) Except as provided in division (G) of this section, the costs of therapy are not allowable costs for nursing facilities for the purpose of determining rates under sections 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257 of the Revised Code.

(C) The department of ~~human~~ job and family services shall process no claims for payment under the medical assistance program for covered therapy services rendered to a resident of a nursing facility other than such claims submitted, in accordance with this section, by a nursing facility that has a valid provider agreement with the department.

(D) Nursing facilities that have entered into a provider agreement may bill the department of ~~human~~ job and family services for covered therapy services it provides to residents of any nursing facility who are recipients of the medical assistance program and not eligible for the medicare program.

(E) The department shall not process any claim for a covered therapy service provided to a nursing facility resident who is eligible for the medicare program unless the claim is for a copayment or deductible or the conditions in division (E)(1) or (2) of this section apply:

(1) The covered therapy service provided is, under the federal statutes, regulations, or policies governing the medicare program, not covered by the medicare program and the service is, under the provisions of this chapter or the rules adopted under this chapter, covered by the medical assistance program.

(2) All of the following apply:

(a) The individual or entity who provided the covered therapy service was eligible to bill the medicare program for the service.

(b) A complete, accurate, and timely claim was submitted to the medicare program and the program denied payment for the service as not medically necessary for the resident. For the purposes of division (E)(2)(b) of this section, a claim is not considered to have been denied by the medicare program until either a denial has been issued following a medicare fair hearing or six months have elapsed since the request for a fair hearing was filed.

(c) The facility is required to provide or arrange for the provision of the service by a licensed therapist or therapy assistant to be in compliance with federal or state nursing facility certification requirements for the medical assistance program.

(d) The claim for payment for the services under the medical assistance program is accompanied by documentation that divisions (E)(2)(b) and (c) of this section apply to the service.

(F) The reimbursement allowed by the department for covered therapy services provided to nursing facility residents and billed under division (D) or (E) of this section shall be fifteen per cent less than the fees it pays for the same services rendered to hospital outpatients. The ~~department~~ director may adopt rules in accordance with Chapter 119. of the Revised Code establishing comparable fees for covered therapy services that are not included in its schedule of fees paid for services rendered to hospital outpatients.

(G) A nursing facility's reasonable costs for rehabilitative, restorative, or maintenance therapy services rendered to facility residents by nurses or

nurse aides, and the facility's overhead costs to support provision of therapy services provided to nursing facility residents, are allowable costs for the purposes of establishing rates under sections 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257 of the Revised Code.

Sec. 5111.27. (A) The department of ~~human~~ job and family services shall conduct a desk review of each cost report it receives under section 5111.26 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each nursing facility and intermediate care facility for the mentally retarded of whether any of its costs are preliminarily determined not to be allowable, the rate calculation under sections 5111.23 to 5111.257 of the Revised Code that results from that determination, and the reasons for the determination and resulting rate. The department shall allow the facility to verify the calculation and submit additional information.

(B) The department may conduct an audit, as defined by ~~the department by~~ rule adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, of any cost report and shall notify the nursing facility or intermediate care facility for the mentally retarded of its findings.

Audits shall be conducted by auditors under contract with or employed by the department. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, shall be determined based on prior performance of the provider and may be based on a risk analysis or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors. The department shall issue the audit report no later than three years after the cost report is filed, or upon the completion of a desk or field audit on the report or a report for a subsequent cost reporting period, whichever is earlier. During the time within which the department may issue an audit report, the provider may amend the cost report upon discovery of a material error or material additional information. The department shall review the amended cost report for accuracy and notify the provider of its determination.

The department may establish a contract for the auditing of facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years. The department shall establish an audit manual and program which shall require that all field audits, conducted either pursuant

to a contract or by department employees:

(1) Comply with the applicable rules prescribed pursuant to Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(2) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(3) Include a written summary as to whether the costs included in the report examined during the audit are allowable and are presented fairly in accordance with generally accepted accounting principles and department rules, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(4) Are conducted by accounting firms or auditors who, during the period of the auditors' professional engagement or employment and during the period covered by the cost reports, do not have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(5) Are conducted by accounting firms or auditors who, as a condition of the contract or employment, shall not audit any facility that has been a client of the firm or auditor;

(6) Are conducted by auditors who are otherwise independent as determined by the standards of independence established by the American institute of certified public accountants;

(7) Are completed within the time period specified by the department;

(8) Provide to the nursing facility or intermediate care facility for the mentally retarded complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the facility to calculate with reasonable certainty those costs that are allowable and the rate to which the facility is entitled.

For the purposes of division (B)(4) of this section, employment of a member of an auditor's family by a nursing facility or intermediate care facility for the mentally retarded that the auditor does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

(C) The department, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, may conduct an exception review of assessment information submitted under section 5111.231 of the Revised Code. The department may conduct an exception review based on the

ings of a certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted at the facility by appropriate health professionals under contract with or employed by the department of ~~human~~ job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case-mix scores.

The rules shall establish an exception review program that requires that exception reviews do all of the following:

(1) Comply with Titles XVIII and XIX of the "Social Security Act";

(2) Provide a written summary that states whether the resident assessment forms have been completed accurately;

(3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any facility that has been a client of the professional.

For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

If an exception review is conducted before the effective date of the rate that is based on the case-mix information subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case-mix information. Where the facility is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold

from the facility's current payments any amounts the department claims to be due from the facility pursuant to section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under sections 5111.23 to 5111.28 of the Revised Code on the basis that the facility charges a lower rate to any resident who is not eligible for the medical assistance program.

(F) The department shall adjust the rates calculated under sections 5111.23 to 5111.28 of the Revised Code to account for reasonable additional costs that must be incurred by nursing facilities and intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5111.29. (A) The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that establish a process under which a nursing facility or intermediate care facility for the mentally retarded, or a group or association of facilities, may seek reconsideration of rates established under sections 5111.23 to 5111.28 of the Revised Code, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment information conducted under section 5111.27 of the Revised Code.

(1) Except as provided in divisions (A)(2) to (4) of this section, the only issue that a facility, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with sections 5111.23 to 5111.28 of the Revised Code and the rules adopted under those sections. The rules shall permit a facility, group, or association to submit written arguments or other materials that support its position. The rules shall specify time frames within which the facility, group, or association and the department must act. If the department determines, as a result of the rate reconsideration, that the rate established for one or more facilities is less than the rate to which it is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the facility the difference between the amount it was paid for that period and the amount it should have been paid.

(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase a facility's rate as calculated under sections 5111.23 to 5111.28 of the Revised Code if the facility demonstrates that its actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if its per diem, actual, allowable costs have increased to a level that exceeds its

total rate, including any efficiency incentive and return on equity payment. The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. The rules shall provide that the extreme circumstances include, but are not limited to, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner-city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.23 to 5111.28 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.

(3) The rules shall provide that the department, through the rate reconsideration process, may increase a facility's rate as calculated under sections 5111.23 to 5111.28 of the Revised Code if the department, in its sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.

(4) The rules shall provide that when beds certified for the medical assistance program are added to an existing facility, replaced at the same site, or subject to a change of ownership or lease, the department, through the rate reconsideration process, shall increase the facility's rate for capital costs proportionately, as limited by any applicable limitation under section 5111.25 or 5111.251 of the Revised Code, to account for the costs of the beds that are added, replaced, or subject to a change of ownership or lease. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section 5111.25 or 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition, bed replacement, or change of ownership or lease. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the facility shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the facility during the same calendar year.

(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(B) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code, any adverse finding that results from an exception review of resident assessment information conducted under that section after the effective date of the facility's rate that is based on the assessment information, and any penalty the department imposes under division (C) of section 5111.28 of the Revised Code shall be subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.291. Notwithstanding sections 5111.20 to 5111.29 of the Revised Code, the department of ~~human~~ job and family services may compute the rate for intermediate care facilities for the mentally retarded operated by the department of mental retardation and developmental disabilities or the department of mental health according to the reasonable cost principles of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1395, as amended.

Sec. 5111.30. The department of ~~human~~ job and family services shall terminate the provider agreement with a nursing facility or intermediate care facility for the mentally retarded that does not comply with the requirements of section 3721.071 of the Revised Code for the installation of fire extinguishing and fire alarm systems.

Sec. 5111.31. (A) Every provider agreement with a nursing facility or intermediate care facility for the mentally retarded shall:

(1) Prohibit the facility from failing or refusing to retain as a patient any person because ~~he~~ the person is, becomes, or may, as a patient in the facility, become a recipient of assistance under the medical assistance program. For the purposes of this division, a recipient of medical assistance who is a patient in a facility shall be considered a patient in the facility during any hospital stays totaling less than twenty-five days during any twelve-month period. Recipients who have been identified by the department of ~~human~~ job and family services or its designee as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period of absences during which they are considered patients if prior authorization of the department for visits with relatives and friends and

participation in therapeutic programs is obtained under rules adopted under section 5111.02 of the Revised Code.

(2) Include any part of the facility that meets standards for certification of compliance with federal and state laws and rules for participation in the medical assistance program, except that nursing facilities that, during the period beginning July 1, 1987, and ending July 1, 1993, added beds licensed as nursing home beds under Chapter 3721. of the Revised Code are not required to include those beds under a provider agreement unless otherwise required by federal law. Once added to the provider agreement, however, those nursing home beds may not be removed unless the facility withdraws from the medical assistance program in its entirety.

(3) Prohibit the facility from discriminating against any patient on the basis of race, color, sex, creed, or national origin.

(4) Except as otherwise prohibited under section 5111.55 of the Revised Code, prohibit the facility from failing or refusing to accept a patient because ~~he~~ the patient is, becomes, or may, as a patient in the facility, become a recipient of assistance under the medical assistance program if less than eighty per cent of the patients in the facility are recipients of medical assistance.

(B) Nothing in this section shall bar any religious or denominational nursing facility or intermediate care facility for the mentally retarded that is operated, supervised, or controlled by a religious organization from giving preference to persons of the same religion or denomination. Nothing in this section shall bar any facility from giving preference to persons with whom it has contracted to provide continuing care.

(C) Nothing in this section shall bar any county home organized under Chapter 5155. of the Revised Code from admitting residents exclusively from the county in which the county home is located.

(D) No nursing facility or intermediate care facility for the mentally retarded with which a provider agreement is in effect shall violate the provider contract obligations imposed under this section.

(E) Nothing in divisions (A) and (B) of this section shall bar any nursing facility or intermediate care facility for the mentally retarded from retaining patients who have resided in the facility for not less than one year as private pay patients and who subsequently become recipients of assistance under the medicaid program, but refusing to accept as a patient any person who is or may, as a patient in the facility, become a recipient of assistance under the medicaid program, if all of the following apply:

(1) The facility does not refuse to retain any patient who has resided in the facility for not less than one year as a private pay patient because ~~he~~ the

patient becomes a recipient of assistance under the medicaid program, except as necessary to comply with division (E)(2) of this section;

(2) The number of medicaid recipients retained under this division does not at any time exceed ten per cent of all the patients in the facility;

(3) On July 1, 1980, all the patients in the facility were private pay patients.

Sec. 5111.33. Reimbursement to nursing facilities and intermediate care facilities for the mentally retarded under sections 5111.20 to 5111.32 of the Revised Code shall include payments to facilities, at a rate equal to the percentage of the per resident per day rates that the department of ~~human~~ job and family services has established for the facility under sections 5111.23 to 5111.29 of the Revised Code for the fiscal year for which the cost of services is reimbursed, to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal participation in the payments is available. The maximum period during which payments may be made to reserve a bed shall not exceed the maximum period specified under federal regulations, and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs. Recipients who have been identified by the department as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period during which payments may be made to reserve a bed if prior authorization of the department is obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs. The ~~department~~ director of job and family services shall adopt rules under division (B) of section 5111.02 of the Revised Code establishing conditions under which prior authorization may be obtained.

Sec. 5111.34. There is hereby created the medicaid long-term care reimbursement study council consisting of the following twenty-two members:

(A) The director of ~~human~~ job and family services;

(B) An employee assigned to the office of medicaid of the department of ~~human~~ job and family services, appointed by the director of ~~human~~ job and family services;

(C) The director of health;

(D) The director of aging;

(E) The director of mental retardation and developmental disabilities;

(F) The director of budget and management;

(G) The legislative budget officer;

(H) Two members of the house of representatives, appointed by the speaker of the house of representatives;

(I) Two members of the senate, appointed by the president of the senate;

(J) Three representatives of the public, one appointed by the governor, one appointed by the speaker of the house of representatives, and one appointed by the president of the senate;

(K) Two representatives of each of the following organizations, appointed by their respective governing bodies:

(1) The Ohio academy of nursing homes;

(2) The association of Ohio philanthropic homes and housing for the aging;

(3) The Ohio health care association;

(4) The Ohio private residential association.

Initial appointments of members described in divisions (B), (H), (I), (J), and (K) of this section shall be made no later than thirty days after December 22, 1992. Vacancies in any of those appointments shall be filled in the same manner as original appointments. The members described in division (J) of this section each shall serve a term of two years and may be reappointed. The members described in divisions (B), (H), (I), and (K) of this section shall serve at the pleasure of the official or governing body appointing the member. The members described in divisions (A), (C), (D), (E), (F), and (G) of this section shall serve for as long as they hold the position that qualifies them for membership on the council. The speaker of the house of representatives and the president of the senate jointly shall appoint the chairperson of the council. Members of the council shall serve without compensation.

The council shall review, on an ongoing basis, the system established by sections 5111.20 to 5111.32 of the Revised Code for reimbursing nursing facilities and intermediate care facilities for the mentally retarded under the medical assistance program. The council shall recommend any changes it determines are necessary. The council periodically shall report its activities, findings, and recommendations to the governor, the speaker of the house of representatives, and the president of the senate.

Sec. 5111.341. No later than July 1, 1994, and no later than the first day of July of each year thereafter, the department of ~~human~~ job and family services shall report to the speaker of the house of representatives and the president of the senate on any necessary refinements to the case-mix system for reimbursing direct care costs under section 5111.23 of the Revised Code,

including the resident assessment instruments specified in rules adopted under section 5111.231 of the Revised Code. In preparing the report each year, the department shall consult with and consider the comments of representatives of nursing facilities, intermediate care facilities for the mentally retarded, and other interested parties.

Sec. 5111.35. As used in this section "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code and subsection (c) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations issued under those subsections.

As used in sections 5111.35 to 5111.62 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under sections 1819 and 1919 of the "Social Security Act."

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of ~~human~~ job and family services under section 5111.38 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.

(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident.

(E) "Emergency" means either of the following:

(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy;

(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or more residents of a nursing facility may be seriously harmed if allowed to remain in the facility, including the following:

(a) A flood or other natural disaster, civil disaster, or similar event;

(b) A labor strike that suddenly causes the number of staff members in a nursing facility to be below that necessary for resident care.

(F) "Finding" means a finding of noncompliance with certification requirements determined by the department of health under section 5111.41 of the Revised Code.

(G) "Immediate jeopardy" means that one or more residents of a nursing facility are in imminent danger of serious physical or life-threatening harm.

(H) "Medicaid eligible resident" means a person who is a resident of a nursing facility, or is applying for admission to a nursing facility, and is eligible to receive financial assistance under the medical assistance program for the care ~~he~~ the person receives in such a facility.

(I) "Noncompliance" means failure to substantially meet all applicable certification requirements.

(J) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(K) "Provider" means a person, institution, or entity that furnishes nursing facility services under a medical assistance program provider agreement.

(L) "Repeat finding" or "repeat deficiency" means a finding or deficiency cited pursuant to a survey, to which both of the following apply:

(1) The finding or deficiency involves noncompliance with the same certification requirement, and the same kind of actions, practices, situations, or incidents caused by or resulting from the noncompliance, as were cited in the immediately preceding standard survey or another survey conducted subsequent to the immediately preceding standard survey of the facility. For purposes of this division, actions, practices, situations, or incidents may be of the same kind even though they involve different residents, staff, or parts of the facility.

(2) The finding or deficiency is cited subsequent to a determination by the department of health that the finding or deficiency cited on the immediately preceding standard survey, or another survey conducted subsequent to the immediately preceding standard survey, had been corrected.

(M)(1) "Scope level one finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect one or a very limited number of facility residents and involve one or a very limited number of facility staff members.

(2) "Scope level two finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of

facility staff members, but the number or percentage of facility residents affected or staff members involved and the number or frequency of the actions, situations, practices, or incidents in short succession does not establish any reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(3) "Scope level three finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, and the number or percentage of facility residents affected or staff members involved or the number or frequency of the actions, situations, practices, or incidents in short succession establishes a reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(4) "Scope level four finding" means a finding of noncompliance by a nursing facility causing or resulting from actions, situations, practices, or incidents that involve a sufficient number or percentage of facility residents or staff members or occur with sufficient regularity over time that the noncompliance can be considered systemic or pervasive in the facility.

(N)(1) "Severity level one finding" means a finding of noncompliance by a nursing facility that has not caused and, if continued, is unlikely to cause physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(2) "Severity level two finding" means a finding of noncompliance by a nursing facility that, if continued over time, will cause, or is likely to cause, physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(3) "Severity level three finding" means a finding of noncompliance by a nursing facility that has caused physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(4) "Severity level four finding" means a finding of noncompliance by a nursing facility that has caused life-threatening harm to a facility resident or caused a resident's death.

(O) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(P) "Substandard care" means care furnished in a facility in which the department of health has cited a deficiency or deficiencies that constitute

one of the following:

(1) A severity level four finding, regardless of scope;

(2) A severity level three and scope level four finding, in the quality of care provided to residents;

(3) A severity level three and scope level three finding, in the quality of care provided to residents.

(Q)(1) "Survey" means a survey of a nursing facility conducted under section 5111.39 of the Revised Code.

(2) "Standard survey" means a survey conducted by the department of health under division (A) of section 5111.39 of the Revised Code and includes an extended survey.

(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey.

Sec. 5111.36. The ~~department~~ director of ~~human~~ job and family services may adopt rules under Chapter 119. of the Revised Code that are consistent with regulations, guidelines, and procedures issued by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and necessary for administration and enforcement of sections 5111.35 to 5111.62 of the Revised Code. If the secretary does not issue appropriate regulations for enforcement of sections 1819 and 1919 of the "Social Security Act" on or before ~~the effective date of this section~~ December 13, 1990, the ~~department~~ director of ~~human~~ job and family services may adopt, under Chapter 119. of the Revised Code, rules that are consistent with those sections and with sections 5111.35 to 5111.62 of the Revised Code.

Sec. 5111.37. The department of ~~human~~ job and family services is hereby authorized to enforce sections 5111.35 to 5111.62 of the Revised Code. The department may enforce the sections directly or through contracting agencies. The department and agencies shall enforce the sections in accordance with the requirements of sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that apply to nursing facilities; with regulations, guidelines, and procedures adopted by the United States secretary of health and human services for the enforcement of sections 1819 and 1919 of the "Social Security Act"; and with the rules adopted under section 5111.36 of the Revised Code. The department and agencies shall enforce sections 5111.35 to 5111.62 of the Revised Code for purposes of the medicare program, Title XVIII of the "Social Security Act," only to the extent prescribed by the regulations, guidelines, and procedures issued by the secretary under section 1819 of that

act.

Sec. 5111.38. The department of ~~human~~ job and family services may enter into contracts with other state agencies that authorize the agencies to perform all or part of the duties assigned to the department of ~~human~~ job and family services under sections 5111.35 to 5111.62 of the Revised Code. Each contract shall specify the duties the agency is authorized to perform and the sections of the Revised Code under which the agency is authorized to perform those duties.

Sec. 5111.41. (A) Except as provided in section 3721.17 of the Revised Code, a finding shall be cited only on the basis of a survey and a determination that one or more actions, practices, situations, or incidents at a nursing facility caused or resulted from the facility's failure to comply with one or more certification requirements. The department of health shall determine whether the actions, practices, situations, or incidents can be justified by either of the following:

(1) The actions, practices, situations, or incidents resulted from a resident exercising ~~his~~ the resident's rights guaranteed under the laws of the United States or of this state;

(2) The actions, practices, situations, or incidents resulted from a facility following the orders of a person licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(B) If the department of health determines both that the actions, practices, situations, or incidents cannot be justified by the factors identified in division (A) of this section and that one or more of the following are applicable, the department shall declare that the actions, practices, situations, or incidents constitute a finding:

(1) The actions, practices, situations, or incidents could have been prevented by one or more persons involved in the facility's operation;

(2) No person involved in the facility's operation identified the actions, practices, situations, or incidents prior to the survey;

(3) Prior to the survey, no person involved in the facility's operation initiated action to correct the noncompliance caused by or resulting in the actions, practices, situations, or incidents;

(4) The facility does not have in effect, if needed, a contingency plan that is reasonably calculated to prevent physical, mental, or emotional harm to residents while permanent corrective action is being taken.

(C) The department of health shall determine the severity level and scope level of each finding.

(D) A deficiency that is substantially corrected within the time limits

specified in sections 5111.52 to 5111.56 of the Revised Code and for which no remedy is imposed, shall be counted as a deficiency for the purpose of determining whether a deficiency is a repeat deficiency.

(E) Whenever the department of health determines that during the period between two surveys a finding existed at the facility, but the facility substantially corrected it prior to the second survey, the department shall cite it. However, the department of ~~human~~ job and family services or a contracting agency shall impose a remedy only as provided in division (C) of section 5111.46 of the Revised Code.

(F) Immediately upon determining the severity and scope of a finding at a nursing facility, the department of health shall notify the department of ~~human~~ job and family services and any contracting agency of the finding, the severity and scope of the finding, and whether the finding creates immediate jeopardy. Immediately upon determining that an emergency exists at a facility that does not result from a deficiency that creates immediate jeopardy, the department of health shall notify the department of ~~human~~ job and family services and any contracting agency.

Sec. 5111.42. (A) Not later than ten days after an exit interview, the department of health shall deliver to the nursing facility a detailed statement, titled a statement of deficiencies, setting forth all findings and deficiencies cited on the basis of the survey, including any finding cited pursuant to division (E) of section 5111.41 of the Revised Code. The statement shall indicate the severity and scope level of each finding and fully describe the incidents or other facts that form the basis of the department's determination of the existence of each finding and deficiency. A failure by the survey team to completely disclose in the exit interview every finding that may result from the survey does not affect the validity of any finding or deficiency cited in the statement of deficiencies. On request of the facility, the department shall provide a copy of any written worksheet or other document produced by the survey team in making recommendations regarding scope and severity levels of findings and deficiencies.

(B) At the same time the department of health delivers a statement of deficiencies, it also shall deliver to the facility a separate written notice that states all of the following:

(1) That the department of ~~human~~ job and family services or a contracting agency will issue an order under section 5111.57 of the Revised Code denying payment for any medicaid eligible residents admitted on and after the effective date of the order if the facility does not substantially correct, within ninety days after the exit interview, the deficiency or deficiencies cited in the statement of deficiencies in accordance with the

plan of correction it submitted under section 5111.43 of the Revised Code;

(2) If a condition of substandard care has been cited on the basis of a standard survey and a condition of substandard care was also cited on the immediately preceding standard survey, that the department of ~~human~~ job and family services or a contracting agency will issue an order under section 5111.57 of the Revised Code denying payment for any medicaid eligible residents admitted on and after the effective date of the order if a condition of substandard care is cited on the basis of the next standard survey;

(3) That the department of ~~human~~ job and family services or a contracting agency will issue an order under section 5111.58 of the Revised Code terminating the facility's participation in the medical assistance program if either of the following applies:

(a) The facility does not substantially correct the deficiency or deficiencies in accordance with the plan of correction it submitted under section 5111.43 of the Revised Code within six months after the exit interview.

(b) The facility substantially corrects the deficiency or deficiencies within the six-month period, but after correcting it, the department of health, based on a follow-up survey conducted during the remainder of the six-month period, determines that the facility has failed to maintain compliance with certification requirements.

Sec. 5111.45. (A) If the department of health cites a deficiency or deficiencies that was not substantially corrected before a survey and that does not constitute a severity level four finding or create immediate jeopardy, the department of ~~human~~ job and family services or a contracting agency shall permit the nursing facility to continue participating in the medical assistance program for up to six months after the exit interview, if all of the following apply:

(1) The facility meets the requirements, established in regulations issued by the United States secretary of health and human services under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, for certification of nursing facilities that have a deficiency.

(2) The department of health has approved a plan of correction submitted by the facility under section 5111.43 of the Revised Code for each deficiency.

(3) The provider agrees to repay the department of ~~human~~ job and family services, in accordance with section 5111.58 of the Revised Code, the federal share of all payments made by the department to the facility during the six-month period following the exit interview if the facility does not within the six-month period substantially correct the deficiency or

deficiencies in accordance with the plan of correction submitted under section 5111.43 of the Revised Code.

(B) If any of the conditions in divisions (A)(1) to (3) of this section do not apply, the department of ~~human~~ job and family services or contracting agency shall issue an order terminating the facility's participation in the medical assistance program. An order issued under this division is subject to appeal under Chapter 119. of the Revised Code. The order shall not take effect prior to the later of the thirtieth day after it is delivered to the facility or, if the order is appealed, the date on which a final adjudication order upholding the termination becomes effective pursuant to Chapter 119. of the Revised Code.

(C) At the time the department of ~~human~~ job and family services or contracting agency issues an order under division (B) of this section terminating a nursing facility's participation in the medical assistance program, it may also impose, subject to section 5111.50 of the Revised Code, other remedies under sections 5111.46 to 5111.48 of the Revised Code.

Sec. 5111.46. (A) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level four finding, the department of ~~human~~ job and family services or contracting agency shall, subject to sections 5111.52 to 5111.56 of the Revised Code, impose a remedy for the deficiency or cluster of deficiencies. The department or agency may act under either division (A)(1) or (2) of this section:

(1) The department or agency may impose one or more of the following remedies:

(a) Issue an order terminating the nursing facility's participation in the medical assistance program.

(b) Do either of the following:

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility.

(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary.

(c) Do either of the following:

(i) Issue an order denying payment to the facility under the medical assistance program for all medicaid eligible residents admitted after the effective date of the order;

(ii) Impose a fine.

(d) Issue an order denying payment to the facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency.

(2) The department or agency may impose one or more of the following remedies:

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(b) Do either of the following:

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility;

(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary.

(c) Do either of the following:

(i) Issue an order denying payment to the facility under the medical assistance program for all medicaid eligible residents admitted after the effective date of the order;

(ii) Impose a fine.

(d) Issue an order denying payment to the facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(e) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5111.43 of the Revised Code.

(B) The department of ~~human~~ job and family services or contracting agency shall deliver a written order issued under division (A)(1) of this section terminating a nursing facility's participation in the medical assistance program to the facility within five days after the exit interview. If the facility alleges, at any time prior to the later of the twentieth day after the exit interview or the fifteenth day after it receives the order, that the deficiency or cluster of deficiencies for which the order was issued has been substantially corrected, the department of health shall conduct a follow-up survey to determine whether the deficiency or cluster of deficiencies has been substantially corrected. The order shall take effect and the facility's participation shall terminate on the twentieth day after the exit interview, unless the facility has substantially corrected the deficiency or cluster of

deficiencies that constituted a severity level four finding or did not receive notice from the department of ~~human~~ job and family services or contracting agency within five days after the exit interview. In the latter case, the order shall take effect and the facility's participation shall terminate on the fifteenth day after the facility received the order.

(C) If the department of health cites a deficiency or cluster of deficiencies pursuant to division (E) of section 5111.41 of the Revised Code that constituted a severity level four finding, the department of ~~human~~ job and family services or a contracting agency shall, subject to section 5111.56 of the Revised Code, impose a fine. The fine shall be in effect for a period equal to the number of days the deficiency or cluster of deficiencies existed at the facility.

Sec. 5111.47. If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level three and scope level three or four finding, the department of ~~human~~ job and family services or a contracting agency may, subject to sections 5111.55 and 5111.56 of the Revised Code, impose one or more of the following remedies:

(A) Do either of the following:

(1) Issue an order denying payment to the facility under the medical assistance program for all medicaid eligible residents admitted after the effective date of the order;

(2) Impose a fine.

(B) Issue an order denying payment to the facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(C) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5111.43 of the Revised Code.

Sec. 5111.48. (A) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level three and scope level two finding, the department of ~~human~~ job and family services or a contracting agency may, subject to sections 5111.55 and 5111.56 of the Revised Code, impose one or more of the following remedies:

(1) Do either of the following:

(a) Issue an order denying payment to the facility under the medical assistance program for all medicaid eligible residents admitted after the

effective date of the order;

(b) Impose a fine.

(2) Issue an order denying payment to the facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(3) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction proposed by the facility and approved by the department of health under section 5111.43 of the Revised Code.

(B) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level three and scope level one finding, the department of ~~human~~ job and family services or a contracting agency may, subject to sections 5111.55 and 5111.56 of the Revised Code, impose one or more of the following remedies:

(1) Impose a fine;

(2) Issue an order denying payment to the facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(3) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction proposed by the facility and approved by the department of health under section 5111.43 of the Revised Code.

(C) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level two and a scope level three or four finding, the department of ~~human~~ job and family services or a contracting agency may, subject to sections 5111.55 and 5111.56 of the Revised Code, impose one or more of the following remedies:

(1) Impose a fine;

(2) Issue an order denying payment to the facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(3) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5111.43 of the Revised Code.

(D) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey, constitutes a severity level two and scope level one or two finding, and is a repeat finding, the department of ~~human~~ job and family services or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5111.43 of the Revised Code.

(E) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level one and scope level three or four finding, the department of ~~human~~ job and family services or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5111.43 of the Revised Code.

(F) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey, constitutes a severity level one and scope level two finding, and is a repeat finding, the department of ~~human~~ job and family services or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5111.43 of the Revised Code.

Sec. 5111.49. (A) In determining which remedies to impose under section 5111.46, 5111.47, or 5111.48 of the Revised Code, including whether a fine should be imposed, the department of ~~human~~ job and family services or a contracting agency shall do both of the following:

(1) Impose the remedies that are most likely to achieve correction of deficiencies, encourage sustained compliance with certification requirements, and protect the health, safety, and rights of facility residents, but that are not directed at punishment of the facility;

(2) Consider all of the following:

(a) The presence or absence of immediate jeopardy;

(b) The relationships of groups of deficiencies to each other;

(c) The facility's history of compliance with certification requirements generally and in the specific area of the deficiency or deficiencies;

(d) Whether the deficiency or deficiencies are directly related to resident care;

(e) The corrective, long-term compliance, resident protective, and

nonpunitive outcomes sought by the department or agency;

(f) The nature, scope, and duration of the noncompliance with certification requirements;

(g) The existence of repeat deficiencies;

(h) The category of certification requirements with which the facility is out of compliance;

(i) Any period of noncompliance with certification requirements that occurred between two certifications by the department of health that the facility was in compliance with certification requirements;

(j) The facility's degree of culpability;

(k) The accuracy, extent, and availability of facility records;

(l) The facility's financial condition, exclusive of any moneys donated to a facility that is an organization described in subsection 501(c)(3) and is tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1;

(m) Any adverse effect that the action or fine would have on the health and safety of facility residents;

(n) If the noncompliance that resulted in the citation of a deficiency or cluster of deficiencies existed before a change in ownership of the facility, whether the new owner or owners have had sufficient time to correct the noncompliance.

(B) Whenever the department or agency imposes remedies under section 5111.46, 5111.47, or 5111.48 of the Revised Code, it shall provide a written statement to the nursing facility that specifies all of the following:

(1) The effective date of each remedy;

(2) The deficiency or cluster of deficiencies for which each remedy is imposed;

(3) The severity and scope of the deficiency or cluster of deficiencies;

(4) The rationale, including all applicable factors specified in division (A) of this section, for imposing the remedies.

Sec. 5111.50. At the time the department of ~~human~~ job and family services or a contracting agency, under section 5111.45, 5111.46, or 5111.51 of the Revised Code, issues an order terminating a nursing facility's participation in the medical assistance program, the department or agency may also impose a fine, in accordance with sections 5111.46 to 5111.48 and 5111.56 of the Revised Code, to be collected in the event the termination order does not take effect. The department or agency shall not collect this fine if the termination order takes effect.

Sec. 5111.51. (A) If the department of health finds during a survey that an emergency exists at a nursing facility, as the result of a deficiency or

ter of deficiencies that creates immediate jeopardy, the department of ~~human~~ job and family services or a contracting agency shall impose one or more of the remedies described in division (A)(1) of this section and, in addition, may take one or both of the actions described in division (A)(2) of this section.

(1) The department or agency shall impose one or more of the following remedies:

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(b) Apply to the common pleas court of the county in which the facility is located for a temporary restraining order, preliminary injunction, or such other injunctive or equitable relief as is necessary to close the facility, transfer one or more residents to other nursing facilities or other appropriate care settings, or otherwise eliminate the condition of immediate jeopardy. If the court grants such an order, injunction, or relief, it may appoint a special master empowered to implement the court's judgment under the court's direct supervision.

(c) Issue an order terminating the facility's participation in the medical assistance program;

(d) Regardless of whether the provider consents, appoint a temporary manager of the facility.

(2) The department or agency may do one or both of the following:

(a) Issue an order denying payment to the facility for all medicaid eligible residents admitted after the effective date of the order;

(b) Impose remedies under sections 5111.46 to 5111.48 of the Revised Code appropriate to the severity and scope of the deficiency or cluster of deficiencies, except that the department or agency shall not impose a fine for the same deficiency for which the department or agency has issued an order under division (A)(2)(a) of this section.

(B) If the department of health, department of ~~human~~ job and family services, or a contracting agency finds on the basis of a survey or other visit to the facility by representatives of that department or agency that an emergency exists at a facility that is not the result of a deficiency or cluster of deficiencies that constitutes immediate jeopardy, the department of ~~human~~ job and family services or contracting agency may do either of the following:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(2) Apply to the common pleas court of the county in which the facility is located for a temporary restraining order, preliminary injunction, or such

other injunctive or equitable relief as is necessary to close the facility, transfer one or more residents to other nursing facilities or other appropriate care settings, or otherwise eliminate the emergency. If the court grants such an order, injunction, or relief, it may appoint a special master empowered to implement the court's judgment under the court's direct supervision.

(C)(1) Prior to acting under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section, the department of ~~human~~ job and family services or contracting agency shall give written notice to the facility specifying all of the following:

(a) The nature of the emergency, including the nature of any deficiency or deficiencies that caused the emergency;

(b) The nature of the action the department or agency intends to take unless the department of health determines that the facility, in the absence of state intervention, possesses the capacity to eliminate the emergency;

(c) The rationale for taking the action.

(2) If the department of health determines that the facility does not possess the capacity to eliminate the emergency in the absence of state intervention, the department of ~~human~~ job and family services or contracting agency may immediately take action under division (A) or (B) of this section. If the department of health determines that the facility possesses the capacity to eliminate the emergency, the department of ~~human~~ job and family services or contracting agency shall direct the facility to eliminate the emergency within five days after the facility's receipt of the notice. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the emergency. If the department of health determines that the facility has eliminated the emergency within the time period, the department of ~~human~~ job and family services or contracting agency shall not act under division (A)(1)(b), (c), (d), or (2)(a), or (B)(2) of this section. If the department of health determines that the facility has failed to eliminate the emergency within the five-day period, the department of ~~human~~ job and family services or contracting agency shall take appropriate action under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section.

(3) Until the written notice required by division (C)(1) of this section is actually delivered, no action taken by the department of ~~human~~ job and family services or contracting agency under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section shall have any legal effect. In addition to the written notice, the department of health survey team shall give oral notice to the facility, at the time of the survey, concerning any recommendations the survey team intends to make that could form the basis of a determination that an emergency exists.

(D) The department of ~~human~~ job and family services or contracting agency shall deliver a written order issued under division (A)(1) of this section terminating a nursing facility's participation in the medical assistance program to the facility within five days after the exit interview. If the facility alleges, at any time prior to the later of the twentieth day after the exit interview or the fifteenth day after it receives the order, that the condition of immediate jeopardy for which the order was issued has been eliminated, the department of health shall conduct a follow-up survey to determine whether the immediate jeopardy has been eliminated. The order shall take effect and the facility's participation shall terminate on the twentieth day after the exit interview, unless the facility has eliminated the immediate jeopardy or did not receive notice from the department of ~~human~~ job and family services or contracting agency within five days after the exit interview. In the latter case, the order shall take effect and the facility's participation shall terminate on the fifteenth day after the facility received the order.

(E) Any action taken by the department of ~~human~~ job and family services or a contracting agency under division (A)(1)(c), (d), or (2)(a) of this section is subject to appeal under Chapter 119. of the Revised Code, except that the department or agency may take such action prior to and during the pendency of any proceeding under that chapter. No action taken by a facility under division (C) of this section to eliminate an emergency cited by the department of health shall be considered an admission by the facility of the existence of an emergency.

Sec. 5111.52. (A) As used in this section:

(1) "Provider agreement" means a contract between the department of ~~human~~ job and family services and a nursing facility for the provision of nursing facility services under the medical assistance program.

(2) "Terminating" includes not renewing.

(B) A nursing facility's participation in the medical assistance program shall be terminated under sections 5111.35 to 5111.62 of the Revised Code as follows:

(1) If the department of ~~human~~ job and family services is terminating the facility's participation, it shall issue an order terminating the facility's provider agreement.

(2) If the department of health, acting as a contracting agency, is terminating the facility's participation, it shall issue an order terminating certification of the facility's compliance with certification requirements. When the department of health terminates certification, the department of ~~human~~ job and family services shall terminate the facility's provider

ment. The department of ~~human~~ job and family services is not required to provide an adjudication hearing when it terminates a provider agreement following termination of certification by the department of health.

(3) If a state agency other than the department of health, acting as a contracting agency, is terminating the facility's participation, it shall notify the department of ~~human~~ job and family services, and the department of ~~human~~ job and family services shall issue an order terminating the facility's provider agreement. The contracting agency shall conduct any administrative proceedings concerning the order.

(C) If the following conditions are met, the department of ~~human~~ job and family services may make medical assistance payments to a nursing facility for a period not exceeding thirty days after the effective date of termination under sections 5111.35 to 5111.62 of the Revised Code of the facility's participation in the medical assistance program:

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. 5111.53. (A) Whenever a nursing facility is closed under sections 5111.35 to 5111.62 of the Revised Code, the department of ~~human~~ job and family services or contracting agency shall arrange for the safe and orderly transfer of all residents, including residents who are not medicaid eligible residents, to other appropriate care settings. Whenever a facility's participation in the medical assistance program is terminated under sections 5111.35 to 5111.62 of the Revised Code, the department or agency shall arrange for the safe and orderly transfer of all medicaid eligible residents or, if the termination results in the closure of the facility, of all residents. The provider and all persons involved in the facility's operation shall cooperate with and assist in the transfer of residents.

(B) After a nursing facility's participation in the medical assistance program is terminated under section 5111.45, 5111.46, 5111.51, or 5111.58 of the Revised Code, the department of ~~human~~ job and family services or contracting agency may appoint a temporary manager subject to the continuing consent of the provider, or may apply to the common pleas court of the county in which the facility is located for such injunctive relief as is necessary for the appointment of a special master, to ensure the transfer of

medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility.

Sec. 5111.54. (A) A temporary manager of a nursing facility appointed by the department of ~~human~~ job and family services or a contracting agency under sections 5111.35 to 5111.62 of the Revised Code shall meet all of the following qualifications:

(1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;

(2) Have demonstrated competence as a nursing home administrator;

(3) Have had no disciplinary action taken against ~~him~~ the temporary manager by any licensing board or professional society in this state.

(B) The salary of a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility and set by the department of ~~human~~ job and family services or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medical assistance program. The extent to which this compensation is allowable under the medical assistance program is subject to and limited by this chapter and rules of the department.

Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility. The allowability of these costs under the medical assistance program shall be subject to and governed by this chapter and the rules of the department. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under rules of the department.

(C) No temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase from either the provider or the court.

(D)(1) A temporary manager appointed for a nursing facility under section 5111.46 of the Revised Code is hereby vested, subject to division (C) of this section, with the legal authority necessary to correct any deficiency or cluster of deficiencies at a facility, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(2) A temporary manager appointed under section 5111.51 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to eliminate the emergency, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(3) A temporary manager appointed under section 5111.53 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility, and to otherwise ensure the health and safety of the residents.

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code to appoint a temporary manager or apply for a special master, the department of ~~human~~ job and family services or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section 5111.49 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of ~~human~~ job and family services or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of ~~human~~ job and family services or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section 5111.49 of the Revised Code is actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 or division (A)(1)(d) of section 5111.51 of the Revised Code shall expire at the end of the seventh day following the appointment. If the department of ~~human~~ job and family services or

ing agency finds that the deficiency or deficiencies that prompted the appointment under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code cannot be substantially corrected, or the condition of immediate jeopardy that prompted the appointment under division (A)(1)(d) of section 5111.51 of the Revised Code cannot be eliminated, prior to the expiration of the appointment, it may take one of the following actions:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager for the facility;

(2) Apply to the common pleas court of the county in which the facility is located for an order appointing a special master who, under the authority and direct supervision of the court and subject to divisions (B) and (C) of this section, may take such additional actions as are necessary to correct the deficiency or deficiencies or eliminate the condition of immediate jeopardy and bring the facility into compliance with certification requirements.

(G) The court, on finding that the deficiency or deficiencies for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code has been substantially corrected, or the emergency for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (B)(2) of section 5111.51 of the Revised Code has been eliminated, that the facility has been brought into compliance with certification requirements, and that the provider has established the management capability to ensure continued compliance with the certification requirements, shall immediately terminate its jurisdiction over the facility and return control and management of the facility to the provider. If the deficiency or deficiencies cannot be substantially corrected, or the emergency cannot be eliminated practicably within a reasonable time following appointment of the special master, the court may order the special master to close the facility and transfer all residents to other nursing facilities or other appropriate care settings.

Sec. 5111.55. (A) An order issued under section 5111.46, 5111.47, 5111.48, 5111.51, or 5111.57 of the Revised Code denying payment to a nursing facility for all medicaid eligible residents admitted after its effective date, or an order issued under section 5111.46, 5111.47, or 5111.48 of the Revised Code denying payment to a nursing facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs, shall also apply to individuals admitted to the facility on and after the effective date of the order who are not medicaid eligible residents but become medicaid eligible residents after admission. Such an order shall not apply to any of the following:

(1) An individual who was a medicaid eligible resident of the facility on the day immediately preceding the effective date of the order and continues to be a medicaid eligible resident on and after that date;

(2) An individual who was a resident of the facility on the day immediately preceding the effective date of the order, continues to be a resident on and after that date, and becomes medicaid eligible on or after that date;

(3) An individual who was a medicaid eligible resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, and chooses to return to the facility;

(4) An individual who was a resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, becomes medicaid eligible on or after that date, and chooses to return to the facility.

(B) An order issued under section 5111.46 of the Revised Code denying payment to a nursing facility for all medicaid eligible residents admitted after its effective date, or denying payment to a facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs shall not take effect prior to the fifth day after the order is delivered to the facility. Such an order issued under section 5111.47 or 5111.48 of the Revised Code shall not take effect prior to the twentieth day after it is delivered to the facility.

(C) No nursing facility that has received an order under section 5111.46, 5111.47, 5111.48, 5111.51, or 5111.57 of the Revised Code denying payment for all new admissions of medicaid eligible residents shall admit a medicaid eligible resident on or after the effective date of the order, unless the resident is described in division (A)(3) or (4) of this section, until the order is terminated pursuant to this section. No nursing facility that has received an order under section 5111.46, 5111.47, or 5111.48 of the Revised Code denying payment to a nursing facility for new admissions of medicaid eligible residents with specified diagnoses or special care needs shall admit such a resident on or after the effective date of the order, unless the resident is described in division (A)(3) or (4) of this section, until the order is terminated pursuant to this section.

(D) In the case of an order imposed under division (B) of section 5111.57 of the Revised Code, the department or agency shall appoint monitors in accordance with section 5111.44 of the Revised Code to

conduct on-site monitoring.

(E)(1) A facility may give written notice to the department of health whenever any of the following apply:

(a) With respect to an order denying payment issued under section 5111.46, 5111.47, or 5111.48 of the Revised Code, either of the following is the case:

(i) The facility has completed implementation of the plan of correction it submitted under section 5111.43 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility has reduced the severity or scope of all of the deficiencies to a level at which sections 5111.46 to 5111.48 of the Revised Code do not authorize the order.

(b) With respect to an order denying payment issued under section 5111.51 of the Revised Code, the facility has eliminated the immediate jeopardy.

(c) With respect to an order denying payment issued under division (A) of section 5111.57 of the Revised Code, the facility has completed implementation of the plan of correction it submitted under section 5111.43 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(d) With respect to an order denying payment issued under division (B) of section 5111.57 of the Revised Code, both of the following are the case:

(i) The facility has completed implementation of the plan of correction it submitted under section 5111.43 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility is in compliance with certification requirements and has provided adequate assurance that it will remain in compliance with them.

(2) Within ten working days after it receives the notice under division (E)(1) of this section, the department of health shall conduct a follow-up survey that focuses on the cited deficiency or deficiencies, unless the department is able to determine, on the basis of documentation provided by the facility, that the facility has completed the applicable action described in divisions (E)(1)(a) to (d) of this section. If the department of health makes that determination on the basis of the documentation, the department of ~~human~~ job and family services or contracting agency shall terminate the order denying payment as of the date the facility completed the applicable action, as subsequently verified by the department of health. If the department of health conducts a follow-up survey, the department of ~~human~~ job and family services or contracting agency shall terminate the order denying payment as of the date the department of health makes the

determination that the facility completed the applicable action.

(F) The department of ~~human~~ job and family services or contracting agency shall provide public notice implementing an order under section 5111.46, 5111.47, 5111.48, 5111.51, or 5111.57 of the Revised Code denying payment to a nursing facility under the medical assistance program for all medicaid eligible residents by publishing in a newspaper of general circulation in the county in which the facility is located an announcement stating: "By order of the (Ohio Department of ~~Human~~ Job and Family Services or name of contracting agency), effective on and after (effective date of order), (name of facility) is no longer authorized to admit Medicaid eligible residents." Immediately following termination of any such order, the department or agency shall publish in a newspaper of general circulation in the county in which the facility is located an announcement stating: "By order of the (Ohio Department of ~~Human~~ Job and Family Services or name of contracting agency), effective on and after (effective date of termination), (name of facility) is hereby authorized to admit Medicaid eligible residents." Neither the department nor the contracting agency shall issue public notice of an order under section 5111.46, 5111.47, or 5111.48 of the Revised Code denying payment to a nursing facility for medicaid eligible residents with specified diagnoses or special care needs; public notice is not required for such an order to take effect.

(G) A facility that complies with division (E) of this section shall not be considered to have admitted to the existence of the deficiency that constitutes the basis of the department's or agency's order.

Sec. 5111.56. (A) As used in this section, "certified beds" means beds certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of ~~human~~ job and family services or a contracting agency imposes a fine on a nursing facility under section 5111.46, 5111.47, or 5111.48 of the Revised Code, it may impose one or more of the following:

(1) One hundred sixty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level four finding;

(2) One hundred forty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level three finding;

(3) One hundred twenty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level two finding;

(4) The amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level one finding or any deficiency or cluster of deficiencies that constitutes a severity level three and scope level four finding;

(5) Ninety per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level three finding;

(6) Eighty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level two finding;

(7) Seventy per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level one finding;

(8) Fifty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level two and scope level four finding;

(9) Forty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level two and scope level three finding.

(C) The amount subject to division (B) of this section shall be the product of multiplying two dollars and fifty cents for each day the fine is in effect by the total number of licensed nursing home beds or certified beds, whichever is greater, in the facility as of the date the deficiency or cluster of deficiencies that is the reason for the fine was cited.

(D)(1) The department of ~~human~~ job and family services or contracting agency shall not impose on a facility, at any one time, more than four fines as a result of any one survey.

(2) The department of ~~human~~ job and family services or contracting agency shall not impose more than one fine based on a deficiency or cluster of deficiencies. However, if the department of health, in a follow-up or other subsequent survey, finds a change in the scope or severity of the deficiency or cluster of deficiencies, the department of ~~human~~ job and family services or contracting agency may increase or decrease the fine in accordance with division (B) of this section to reflect the change in scope or severity. The department or agency shall give the facility written notice of the change in the amount of the fine. The change shall take effect on the date the follow-up or other subsequent survey is completed.

If the department of health finds that a deficiency is a repeat deficiency, the department of ~~human~~ job and family services or contracting agency may impose a fine that is one hundred per cent greater than the fine specified in

division (B) of this section for the deficiency.

(E) The total amount of fines the department of ~~human~~ job and family services or contracting agency may impose on a facility in a single calendar year shall not exceed five hundred dollars for each licensed nursing home bed or certified bed, whichever is greater in number, in the facility.

(F)(1) Except as provided in division (F)(2) of this section, the department of ~~human~~ job and family services or contracting agency shall not impose a fine under section 5111.46, 5111.47, or 5111.48 of the Revised Code if the deficiency or cluster of deficiencies is substantially corrected within twenty days after the nursing facility receives the statement provided under division (B) of section 5111.49 of the Revised Code. The department or agency shall inform the nursing facility in that statement that the fine will not be imposed if the deficiency or cluster of deficiencies is substantially corrected within the twenty-day period.

(2) If a nursing facility has substantially corrected a deficiency or cluster of deficiencies within six months after the exit interview of a survey that was the basis for citing a deficiency or cluster of deficiencies, but after correcting it has been cited for the same deficiency or cluster of deficiencies by the department of health on the basis of a subsequent survey conducted during the remainder of the six-month period, the department of ~~human~~ job and family services or contracting agency may impose a fine beginning on the date of the exit interview of the subsequent survey.

(G) Whenever a facility believes that it has completed implementation of the plan of correction it submitted under section 5111.43 of the Revised Code and substantially corrected the cited deficiency or cluster of deficiencies that is the basis for a fine, it may give written notice to that effect to the department of health. After receiving the notice, the department shall conduct a follow-up survey of the facility that focuses on the deficiency or cluster, unless the department is able to determine, on the basis of documentation provided by the facility, that the facility has substantially corrected the deficiency or cluster. If, based on the follow-up survey, the department establishes that the facility had not completed implementation of the plan of correction at the time the department received the notice, any fine based on the deficiency or cluster shall be doubled effective from the date the department received the notice. A facility that complies with this division shall not be considered to have admitted the existence of the deficiency or cluster that is the basis for the fine.

(H) Except for a fine imposed under division (C) of section 5111.46 of the Revised Code and as provided in division (F)(2) of this section, the department of ~~human~~ job and family services or contracting agency shall

impose a fine only if the facility fails to give notice under division (G) of this section within twenty days after it receives the statement required by division (B) of section 5111.49 of the Revised Code or if the department of health determines, based on a follow-up survey, that the deficiency or cluster of deficiencies for which the fine is proposed has not been substantially corrected within the twenty-day period. The fine shall be imposed effective on the twenty-first day after the facility receives the statement under division (B) of section 5111.49 of the Revised Code. The fine shall remain in effect until the earliest of the following:

(1) The date the department of health receives notice under division (G) of this section, unless the department determines, on the basis of a follow-up survey, that the deficiency or cluster of deficiencies that is the basis for the fine has not been substantially corrected as of that date;

(2) The date on which the department of health makes a determination, on the basis of a follow-up survey, that the deficiency or cluster of deficiencies has been substantially corrected;

(3) The date the facility substantially corrected the deficiency or cluster, as subsequently determined by the department of health on the basis of documentation provided by the facility.

(I) Any fine imposed by the department of ~~human~~ job and family services or contracting agency under this section is subject to appeal under Chapter 119. of the Revised Code. If the facility does not request a hearing under Chapter 119. of the Revised Code and either pays or agrees in writing to pay the fine when payment becomes due under division (J) of this section, the department or agency shall reduce the fine by fifty per cent. The department or agency may compromise any claim for payment of a fine under sections 5111.35 to 5111.62 of the Revised Code.

(J) The department of ~~human~~ job and family services or contracting agency shall collect interest on fines, at the rate per calendar month that equals one-twelfth of the rate per year prescribed by section 5703.47 of the Revised Code for the calendar year that includes the month for which the interest charge accrues. Payment of a fine is due, and interest begins to accrue on the unpaid fine or balance, on the thirty-first day after the department or agency issues a final adjudication order imposing the fine. If the deficiency or deficiencies on which the fine is based have not been corrected when the final adjudication order is issued, the payment is due, and interest begins to accrue on the unpaid fine or balance, on the thirty-first day after the deficiency or deficiencies are corrected and the department or agency mails a notice specifying the amount of the fine to the facility.

(K) The department of ~~human~~ job and family services or contracting

agency shall collect fines and interest imposed under this section through one of the following means:

(1) A lump sum payment from the provider;

(2) Periodic payments for a period not to exceed twelve months, in accordance with a schedule approved by the department or agency;

(3) Appropriately reducing the amounts of payments made to the facility for care provided to medicaid eligible residents for a period not to exceed twelve months following the date on which payment of the fine becomes due under division (J) of this section. An amount equal to the amount by which each payment is reduced shall be deposited to the credit of the residents protection fund in accordance with section 5111.62 of the Revised Code.

Sec. 5111.57. (A) The department of ~~human~~ job and family services or a contracting agency shall issue an order denying payment to a nursing facility for all medicaid eligible residents admitted to the facility on or after the effective date of the order, if the facility has failed to substantially correct within ninety days after the exit interview a deficiency or cluster of deficiencies in accordance with the plan of correction it submitted under section 5111.43 of the Revised Code, as determined by the department of health on the basis of a follow-up survey.

(B) The department of ~~human~~ job and family services or contracting agency shall issue an order denying payment to a nursing facility for all medicaid eligible residents admitted to the facility on or after the effective date of the order, if during three consecutive standard surveys conducted after ~~the effective date of this section~~ DECEMBER 13, 1990, the department of health has found a condition of substandard care in a facility.

(C) An order issued under division (A) or (B) of this section shall take effect on the later of the date the facility receives the order or the date the public notice required under division (F) of section 5111.55 of the Revised Code is published. The order is subject to appeal under Chapter 119. of the Revised Code; however the order may take effect prior to or during the pendency of any hearing under that chapter. In that case, the department or agency shall provide the facility an opportunity for a hearing in accordance with section 5111.60 of the Revised Code.

Sec. 5111.58. (A) If a nursing facility notifies the department of ~~human~~ job and family services or a contracting agency, at any time during the six-month period following the exit interview of a survey that was the basis for citing a deficiency or deficiencies, that the deficiency or deficiencies have been substantially corrected in accordance with the plan of correction submitted and approved under section 5111.43 of the Revised Code, the

department of health shall conduct a follow-up survey to determine whether the deficiency or deficiencies have been substantially corrected in accordance with the plan.

(B) The department of ~~human~~ job and family services or a contracting agency shall terminate a nursing facility's participation in the medical assistance program whenever the facility has not substantially corrected, within six months after the exit interview of the survey on the basis of which it was cited, a deficiency or deficiencies in accordance with the plan of correction submitted under section 5111.43 of the Revised Code, as determined by the department of health on the basis of a follow-up survey.

(C) Unless the facility has substantially corrected the deficiency or deficiencies in accordance with the plan of correction, as determined by the department of health on the basis of a follow-up survey, the department of ~~human~~ job and family services or contracting agency shall deliver to the facility, at least thirty days prior to the day that is six months after the exit interview, a written order terminating the facility's participation in the medical assistance program. The order shall take effect and the facility's participation shall terminate on the day that is six months after the exit interview. The order shall not take effect if, after it is delivered to the facility and prior to the effective date of the order, the department of health determines on the basis of a follow-up survey that the facility has corrected the deficiency or deficiencies.

An order issued under this section is subject to appeal under Chapter 119. of the Revised Code; however, the order may take effect prior to or during the pendency of any hearing under that chapter. In that case, the department of ~~human~~ job and family services or contracting agency shall provide the facility an opportunity for a hearing in accordance with section 5111.60 of the Revised Code.

(D) Except as provided in division (E) of this section, whenever the department of ~~human~~ job and family services or a contracting agency terminates a facility's participation in the medical assistance program pursuant to this section, the provider shall repay the department the federal share of all payments made by the department to the facility under the medical assistance program during the six-month period following the exit interview of the survey that was the basis for citing the deficiency or cluster of deficiencies. The provider shall repay the department within thirty days after the department repays to the federal government the federal share of payments made to the facility during that six-month period.

(E) A provider is not required to repay the department of ~~human~~ job and family services if either of the following is the case:

(1) The facility has brought an appeal under Chapter 119. of the Revised Code of termination of its participation in the medical assistance program, except that the provider shall repay the department of ~~human~~ job and family services within thirty days after the facility exhausts its right to appeal under that chapter.

(2) The facility complied with the plan of correction approved by the department of health and the obligation to repay resulted from the department's failure to provide timely verification to the United States department of health and human services of the facility's compliance with the plan of correction.

(F) If a provider's obligation to repay the department of ~~human~~ job and family services under division (D) of this section results from disallowance of federal financial participation by the United States department of health and human services, the provider shall not be required to repay the department of ~~human~~ job and family services until the federal disallowance becomes final.

(G) Any fines paid under sections 5111.35 to 5111.62 of the Revised Code during any period for which the facility is required to repay the department of ~~human~~ job and family services under division (D) of this section shall be offset against the amount the provider is required to repay the department for that period.

(H) Prior to a change of ownership of a facility for which a provider has an obligation to repay the department of ~~human~~ job and family services under division (D) of this section that has not become final, or has become final but not been paid, the department may do one or more of the following:

(1) Require the provider to place money in escrow, or obtain a bond, in sufficient amount to indemnify the state against the provider's failure to repay the department after the change of ownership occurs;

(2) Place a lien on the facility's real property;

(3) Use any method to recover the payments that is available to the attorney general to recover payments on behalf of the department of ~~human~~ job and family services.

Sec. 5111.59. The department of ~~human~~ job and family services, the department of health, and any contracting agency shall deliver a written notice, statement, or order to a nursing facility under sections 5111.35 to 5111.41 and 5111.43 to 5111.62 of the Revised Code by certified mail or hand delivery. If the notice, statement, or order is mailed, it shall be addressed to the administrator of the facility as indicated in the department's or agency's records. If it is hand delivered, it shall be delivered to a person at the facility who would appear to the average prudent person to have

ority to accept it.

Delivery of written notice by a nursing facility to the department of health, the department of ~~human~~ job and family services, or a contracting agency under sections 5111.35 to 5111.62 of the Revised Code shall be by certified mail or hand delivery to the appropriate department or the agency.

Sec. 5111.60. (A) Except as provided in division (B) of this section, the following remedies are subject to appeal under Chapter 119. of the Revised Code:

(1) An order issued under section 5111.45, 5111.46, 5111.51, or 5111.58 of the Revised Code terminating a nursing facility's participation in the medical assistance program;

(2) Appointment of a temporary manager of a facility under division (A)(1)(b) or (2)(b) of section 5111.46, or division (A)(1)(d) of section 5111.51 of the Revised Code;

(3) An order issued under section 5111.46, 5111.47, 5111.48, 5111.51, or 5111.57 of the Revised Code denying payment to a facility under the medical assistance program for all medicaid eligible residents admitted after the effective date of the order;

(4) An order issued under section 5111.46, 5111.47, or 5111.48 of the Revised Code denying payment to a facility under the medical assistance program for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(5) A fine imposed under section 5111.46, 5111.47, or 5111.48 of the Revised Code.

(B) The department of ~~human~~ job and family services or contracting agency may do any of the following prior to or during the pendency of any proceeding under Chapter 119. of the Revised Code:

(1) Issue and execute an order under section 5111.46, 5111.51, or 5111.58 of the Revised Code terminating a nursing facility's participation in the medical assistance program;

(2) Appoint a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 or division (A)(1)(d) of section 5111.51 of the Revised Code;

(3) Issue and execute an order under section 5111.46, 5111.47, 5111.51, or 5111.57 of the Revised Code denying payment to a facility for all medicaid eligible residents admitted after the effective date of the order;

(4) Issue and execute an order under section 5111.46 or 5111.47 or division (A), (B), or (C) of section 5111.48 of the Revised Code denying payment to a facility for medicaid eligible residents admitted after the

effective date of the order who have specified diagnoses or special care needs.

(C) Whenever the department or agency imposes a remedy listed in division (B) of this section prior to or during the pendency of a proceeding, all of the following apply:

(1) The provider against whom the action is taken shall have ten days after the date the facility actually receives the notice specified in section 119.07 of the Revised Code to request a hearing.

(2) The hearing shall commence within thirty days after the date the department or agency receives the provider's request for a hearing.

(3) The hearing shall continue uninterrupted from day to day, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the department or agency.

(4) If the hearing is conducted by a hearing examiner, ~~he~~ the hearing examiner shall file ~~his~~ a report and recommendations within ten days after the close of the hearing.

(5) The provider shall have five days after the date the hearing officer files ~~his~~ the report and recommendations within which to file objections to the report and recommendations.

(6) Not later than fifteen days after the date the hearing officer files ~~his~~ the report and recommendations, the director of ~~human~~ job and family services or the director of the contracting agency shall issue an order approving, modifying, or disapproving the report and recommendations of the hearing examiner.

(D) If the department or agency imposes more than one remedy as the result of ~~deficiences~~ DEFICIENCIES cited in a single survey, the proceedings for all of the remedies shall be consolidated. If any of the remedies are imposed during the pendency of a hearing, as permitted by division (B) of this section, the consolidated hearing shall be conducted in accordance with division (C) of this section. The consolidation of the remedies for purposes of a hearing does not affect the effective dates prescribed in sections 5111.35 to 5111.58 of the Revised Code.

(E) If a contracting agency conducts administrative proceedings pertaining to remedies imposed under sections 5111.35 to 5111.62 of the Revised Code, the department of ~~human~~ job and family services shall not be considered a party to the proceedings.

Sec. 5111.61. (A)(1) Except as required by court order, as necessary for the administration or enforcement of any statute relating to nursing facilities, or as provided in division (C) of this section, the department of ~~human~~ job and family services and any contracting agency shall not release any of the

following information without the permission of the individual or ~~his~~ the individual's legal representative:

(a) The identity of any resident of a nursing facility;

(b) The identity of any individual who submits a complaint about a nursing facility;

(c) The identity of any individual who provides the department or agency with information about a nursing facility and has requested confidentiality;

(d) Any information that reasonably would tend to disclose the identity of any individual described in division (A)(1)(a) to (c) of this section.

(2) An agency or individual to whom the department or contracting agency is required, by court order or for the administration or enforcement of a statute relating to nursing facilities, to release information described in division (A)(1) of this section shall not release the information without the permission of the individual who would be or would reasonably tend to be identified, or of ~~his~~ the individual's legal representative, unless the agency or individual is required to release it by division (C) of this section, by court order, or for the administration or enforcement of a statute relating to nursing facilities.

(B) Except as provided in division (C) of this section, any record that identifies an individual described in division (A)(1) of this section or that reasonably would tend to identify such an individual is not a public record for the purposes of section 149.43 of the Revised Code, and is not subject to inspection and copying under section 1347.08 of the Revised Code.

(C) If the department or a contracting agency, or an agency or individual to whom the department or contracting agency was required by court order or for administration or enforcement of a statute relating to nursing facilities to release information described in division (A)(1) of this section, uses information in any administrative or judicial proceeding against a facility that reasonably would tend to identify an individual described in division (A)(1) of this section, the department, agency, or individual shall disclose that information to the facility. However, the department, agency, or individual shall not disclose information that directly identifies an individual described in divisions (A)(1)(a) to (c) of this section, unless the individual is to testify in the proceedings.

(D) No person shall knowingly register a false complaint about a nursing facility with the department or a contracting agency, or knowingly swear or affirm the truth of a false complaint, when the allegation is made for the purpose of incriminating another.

Sec. 5111.62. The proceeds of all fines, including interest, collected

under sections 5111.35 to 5111.62 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund, which is hereby created. Moneys in the fund shall be used solely for the protection of the health or property of residents of nursing facilities in which the department of health finds deficiencies, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for the loss of money managed by the facility under section 3721.15 of the Revised Code. The fund shall be maintained and administered by the department of ~~human~~ job and family services under rules developed ~~by the department~~ in consultation with the departments of health and aging and adopted by the ~~department~~ director of ~~human~~ job and family services under Chapter 119. of the Revised Code.

Sec. 5111.74. (A) Not later than July 1, 1995, the department of ~~human~~ job and family services shall establish a fair share demonstration project in Butler county for two years. The demonstration project shall be administered by the Butler county health care management board created under division (B) of this section. In establishing the project, the department shall enter into an agreement with the board, which shall provide that medical assistance services be given to designated medical assistance recipients who elect or are required by the department to receive their services from or through the board or at least one other managed care arrangement designated and approved by the department.

The demonstration project shall demonstrate the viability of delivering health care services to Butler county medical assistance recipients through a cooperative health care purchasing plan involving the organization of a managed care network by physicians practicing medicine in Butler county and hospitals located there. The demonstration project shall restructure the medical assistance delivery system to improve the delivery of cost effective, quality health care with an emphasis on primary and preventive care, and shall prevent cost shifting to the private sector. The demonstration project shall demonstrate all of the following:

(1) A cost savings through prevention, the use of appropriate levels of care, reduced administrative costs, and utilization of the demonstration project through primary provider reimbursement policies that encourage the delivery of primary and preventive care;

(2) The effectiveness of local collaboration and autonomy in managing medical assistance expenditures in Butler county;

(3) Improved access to quality health care for Butler county's medical assistance recipients, while containing health care costs.

The department shall make a grant of two hundred fifty thousand dollars to the board on its establishment for operating and project expenses. These funds shall be transferred from the department's medical assistance account.

(B)(1) There is hereby created the Butler county health care management board to administer the fair share demonstration project in that county. The board shall consist of the county director of ~~human~~ job and family services and the following members:

(a) One representative of each hospital system located in Butler county, selected by the hospital;

(b) Two physicians who specialize in pediatrics; two family practice physicians; a physician who specializes in obstetrics; an emergency department physician; a primary care physician; a physician who is a medical specialist; a physician who is a surgical specialist; a psychiatrist; and one physician selected at large. The physicians shall be selected by the county medical society or a similar organization of physicians in the county.

(c) A chiropractor selected by an association of chiropractors in the county;

(d) A licensed registered nurse who is an advanced practice nurse selected by an organization of nurses in the county;

(e) A dentist selected by an organization of dentists in the county;

(f) An optometrist selected by an organization of optometrists in the county;

(g) A psychologist selected by an organization of psychologists in the county;

(h) A representative of child and family health services clinics selected by the child health service consortium of Butler county;

(i) A podiatrist selected by an organization of podiatrists in the county.

(2) All members of the board shall be selected on the basis of their experience with the delivery of health care services to medical assistance recipients. If more than one physician is to be selected from a specialty area, the order of preference for determining board membership shall first be those physicians that have significant experience in providing health care services to medical assistance recipients.

(3) Each member of the board shall serve for the duration of the demonstration project. In the event of a vacancy on the board, a member shall be selected in the same manner as the member replaced. Members shall not be compensated, but may be reimbursed by the board for their actual and necessary expenses. A majority of the members constitutes a quorum, and the board may take official action only by affirmative vote of a quorum.

(4) Not later than thirty days after July 1, 1993, the representatives of

the hospital systems in Butler county shall select a temporary chairperson, who shall convene the board not later than ninety days after July 1, 1993. Once convened, the board shall elect a chairperson by a majority vote from among its members, and all further meetings shall be convened by the chairperson. The board may elect officers and shall establish rules and procedures for its governance and a schedule of meetings. The board may establish an executive committee and such other subcommittees as it determines necessary to act on behalf of the board. The county department shall provide the board with any clerical, professional, or technical assistance it requests.

(C) The Butler county health care management board shall develop and implement a plan for the fair share demonstration project. The board shall establish educational and case management programs as it determines necessary to facilitate access to and encourage appropriate utilization of essential preventive medicine and primary care services. The board shall have limited immunity from antitrust actions in developing and implementing the project. The board shall apply for a certificate of authority to establish and operate a health insuring corporation under Chapter 1751. of the Revised Code. On application of the board, the superintendent of insurance shall issue a certificate of authority to the board for a two-year period, notwithstanding the fact that the board may not meet the requirements of Chapter 1751. of the Revised Code. The certificate of authority shall be void if the agreement with the department is not executed. The superintendent shall retain powers and duties under Chapter 3903. of the Revised Code with regard to the Butler county health care management board and the demonstration project.

The board may do any of the following:

(1) Enter into contracts with any person organized to do business in this state on behalf of the board;

(2) Accept and spend donations, grants, and other funds received by the board;

(3) Employ personnel and professionals that may be needed to assess the feasibility and to develop the demonstration project;

(4) Establish provider agreements in Butler county that will organize a managed health care delivery system for medical assistance recipients and will establish provider reimbursement policies to encourage the delivery of primary health care services;

(5) Monitor the quality of health care delivered to medical assistance recipients in Butler county;

(6) Establish provider agreements with physicians and other health care

practitioners that set forth the terms, conditions, and payment procedures for the provision of health care services to medical assistance recipients. Any provider willing to accept such terms and conditions shall be eligible for participation in the project.

(7) Establish, in cooperation with the county medical society, voluntary participation guidelines for the project for physicians in Butler county to ensure that they provide health care services to their fair share of medical assistance recipients in the county. Such guidelines shall be communicated to all medical providers providing services in Butler county.

(8) Require that all medical assistance recipients, other than those described in division (A)(2) of section 5111.01 of the Revised Code, who elect or are required by the department to receive their medical assistance services through the board choose a physician who is participating in the demonstration project to provide all health care services to the recipient, and adopt standards for changing physicians, including disenrollment as provided by federal law;

(9) So long as it is consistent with federal law, establish a co-pay system for the following:

(a) Provision of medical services under the demonstration project;

(b) Inappropriate utilization of medical services;

(c) Over-utilization of medical services;

(d) Failure of a medical assistance recipient to appear for a scheduled medical appointment.

(10) Enter into agreements with the board of nursing authorizing advanced practice nurses, certified nurse practitioners, clinical nurse specialists, and certified nurse-midwives in Butler county to have prescription powers and perform primary care services in collaboration with or under the supervision of a physician or podiatrist in accordance with division (D) of this section;

(11) Enter into agreements with the state medical board authorizing physician assistants in Butler county to have prescription powers and perform primary care services under the general supervision and authority of a physician in accordance with division (D) of this section;

(12) Assign medical assistance recipients, other than those described in division (A)(2) of section 5111.01 of the Revised Code, who elect or are required by the department to receive their medical assistance services through the board, to providers who have entered into provider agreements with the board.

(D) The Butler county health care management board shall pass a resolution by a majority vote establishing the terms and conditions under

which the scope of practice of advanced practice nurses, certified nurse practitioners, clinical nurse specialists, certified nurse-midwives, and physician assistants in Butler county may be expanded. The expansion of practice for advanced practice nurses shall comply with section 4723.56 of the Revised Code. The expansion of practice for certified nurse practitioners, clinical nurse specialists, and certified nurse-midwives shall comply with Chapter 4723. of the Revised Code. The expansion of practice for physician assistants shall comply with sections 4730.06 and 4730.07 of the Revised Code. The resolution shall be sent to the board of nursing and the Ohio state medical board with a request that the scope of practice of the practitioners be amended in accordance with the resolution. On receipt of the resolution and request, the board of nursing and the Ohio state medical board shall, without amendment, adopt rules establishing the terms and conditions for expansion of the scope of practice of advanced practice nurses, certified nurse practitioners, clinical nurse specialists, certified nurse-midwives, and physician assistants in Butler county in accordance with the resolution. Such rules shall apply only to such practitioners performing their duties in Butler county in conjunction with and in accordance with the fair share demonstration project.

(E) The department of ~~human~~ job and family services may negotiate and enter into an agreement with the board establishing a comprehensive capitated fee for purposes of delivering health care services to persons receiving benefits under Chapter 5107. and section 5111.013 of the Revised Code, if the department obtains a waiver from the secretary of the United States department of health and human services of any federal regulation that would prohibit or restrict the use of federal funds. The department may include those persons described in division (A)(2) of section 5111.01 of the Revised Code in the project as it considers necessary. The capitated fee shall be based on historic and expected utilization of the medical assistance program by the Butler county medical assistance population, adjusted by the current inflation rate, and shall be sufficient to ensure that all Butler county primary care physicians participating in the demonstration project are reimbursed for office visits at a rate of not less than thirty dollars per patient during the first year of the project, and not less than thirty-five dollars per patient for the second year of the project. Any savings of state funds the department of ~~human~~ job and family services receives as the result of the demonstration project shall be distributed as follows:

(1) One-third of the savings to Butler county for children's health programs;

(2) One-third of the savings to the department of ~~human~~ job and family

services;

(3) One-third of the savings to providers participating in the demonstration project.

(F) All provider agreements or any contracts entered into or negotiated by the board shall be exempt from any contract provision contained in a contract between medical providers and health insurers or indemnity insurers licensed to do business in this state that provides for a lower payment for the services.

(G) The Butler county health care management board shall, at the end of each year of the demonstration project, issue a report listing every medical provider practicing in Butler county, the degree to which such provider has participated in the demonstration project, and the extent to which such provider has met the voluntary guidelines adopted by the board under division (C)(7) of this section.

(H) The department of ~~human~~ job and family services shall apply for any federal waiver needed to implement the Butler county fair share demonstration project.

Sec. 5111.81. (A) There is hereby established the pharmacy and therapeutics committee of the department of ~~human~~ job and family services. The committee shall consist of eight members and shall be appointed by the director of ~~human~~ job and family services. The membership of the committee shall include: two pharmacists licensed under Chapter 4729. of the Revised Code; two doctors of medicine and two doctors of osteopathy licensed under Chapter 4731. of the Revised Code; a registered nurse licensed under Chapter 4723. of the Revised Code; and a pharmacologist who has a doctoral degree. The committee shall elect one of its members as chairperson.

(B) In the absence of fraud or bad faith, neither the pharmacy and therapeutics committee nor a current or former member, agent, representative, employee, or independent contractor of the committee shall be held liable in damages to a person as the result of an act, omission, proceeding, conduct, or decision relating to the official duties undertaken or performed pursuant to this section or rules promulgated pursuant to section 111.15 or Chapter 119. of the Revised Code. If a current or former member, agent, representative, employee, or independent contractor of the committee requests the state to defend the current or former member, agent, representative, employee, or independent contractor against a claim or in an action arising out of an act, omission, proceeding, conduct, or decision relating to official duties undertaken or performed, if the request is made in writing at a reasonable time before the trial of the claim or in the action, and

if the person requesting the defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the defense of the claim or action and shall pay any resulting judgment, compromise, or settlement. The state shall not pay that part of a claim or judgment that is for punitive or exemplary damages.

Sec. 5111.87. The department of ~~human~~ job and family services shall enter into an interagency agreement with the department of mental retardation and developmental disabilities with regard to the program established by the department of ~~human~~ job and family services under a waiver from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible medical assistance recipients with home or community-based services as an alternative to placement in an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code. The agreement shall provide for the department of mental retardation and developmental disabilities to administer the program in accordance with the terms of the waiver. The departments shall adopt rules in accordance with Chapter 119. of the Revised Code governing the program.

Sec. 5111.88. As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

The department of ~~human~~ job and family services shall enter into an interagency agreement with the department of mental retardation and developmental disabilities with regard to the program established by the department of ~~human~~ job and family services under a waiver from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide home or community-based services as an alternative to nursing facility placement to recipients of medical assistance who are mentally retarded or developmentally disabled. The agreement shall provide for the department of mental retardation and developmental disabilities to administer the program in accordance with the terms of the waiver. The departments shall adopt rules in accordance with Chapter 119. of the Revised Code governing the program.

Sec. 5112.01. As used in sections 5112.03 to 5112.21 of the Revised Code:

(A)(1) "Hospital" means a nonfederal hospital to which either of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital, and

provides inpatient hospital services, as defined in 42 C.F.R. 440.10;

(b) The hospital is recognized under the medicare program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, as a cancer hospital and is exempt from the medicare prospective payment system.

"Hospital" does not include a hospital operated by a health insuring corporation that has been issued a certificate of authority under section 1751.05 of the Revised Code or a hospital that does not charge patients for services.

(2) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5112.03 of the Revised Code.

(B) "Bad debt," "charity care," "courtesy care," and "contractual allowances" have the same meanings given these terms in regulations adopted under Title XVIII of the "Social Security Act."

(C) "Cost reporting period" means the twelve-month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act."

(D) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state-owned and -operated hospital with more than five hundred registered beds.

(E) "Indigent care pool" means the sum of the following:

(1) The total of assessments to be paid in a program year by all hospitals under section 5112.06 of the Revised Code, less the assessments deposited into the legislative budget services fund under section 5112.19 of the Revised Code;

(2) The total amount of intergovernmental transfers required to be made in the same program year by governmental hospitals under section 5112.07 of the Revised Code, less the amount of transfers deposited into the legislative budget services fund under section 5112.19 of the Revised Code;

(3) The total amount of federal matching funds that will be made available in the same program year as a result of funds distributed by the department of ~~human~~ job and family services to hospitals under section 5112.08 of the Revised Code.

(F) "Intergovernmental transfer" means any transfer of money by a governmental hospital under section 5112.07 of the Revised Code.

(G) "Medical assistance program" means the program of medical assistance established under section 5111.01 of the Revised Code and Title XIX of the "Social Security Act."

(H) "Program year" means a period beginning the first day of October,

or a later date designated in rules adopted under section 5112.03 of the Revised Code, and ending the thirtieth day of September, or an earlier date designated in rules adopted under that section.

(I) "Registered beds" means the total number of hospital beds registered with the department of health, as reported in the most recent "directory of registered hospitals" published by the department of health.

(J) "Total facility costs" means the total costs for all services rendered to all patients, including the direct, indirect, and overhead cost to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation, excluding costs associated with providing skilled nursing services in distinct-part nursing facility units, as shown on the hospital's cost report filed under section 5112.04 of the Revised Code. Effective October 1, 1993, if rules adopted under section 5112.03 of the Revised Code so provide, "total facility costs" may exclude costs associated with providing care to recipients of any of the governmental programs listed in division (B) of that section.

(K) "Uncompensated care" means bad debt and charity care.

Sec. 5112.03. (A) The director of ~~human~~ job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of

their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) ~~Recipients of general assistance medical assistance provided under former Chapter 5113. of the Revised Code;~~

~~(3)~~ Recipients of disability assistance medical assistance provided under Chapter 5115. of the Revised Code;

~~(4)~~(3) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(5)~~(4) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

~~(6)~~(5) Recipients of Title V of the "Social Security Act";

~~(7)~~(6) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.04. (A) Except as provided in division (C) of this section, each hospital, on or before the first day of July of each year or at a later date approved by the director of ~~human~~ job and family services, shall submit to the department of ~~human~~ job and family services a financial statement for the preceding calendar year that accurately reflects the income, expenses, assets, liabilities, and net worth of the hospital, and accompanying notes. A hospital that has a fiscal year different from the calendar year shall file its financial statement within one hundred eighty days of the end of its fiscal year or at a later date approved by the director of ~~human~~ job and family services. The financial statement shall be prepared by an independent certified public accountant and reflect an official audit report prepared in a manner consistent with generally accepted accounting principles. The financial statement shall, to the extent that the hospital has sufficient financial records, show bad debt and charity care separately from courtesy care and contractual allowances.

(B) Except as provided in division (C) of this section, each hospital, within one hundred eighty days after the end of the hospital's cost reporting

period, shall submit to the department a cost report in a format prescribed in rules adopted by the director of ~~human~~ job and family services under section 5112.03 of the Revised Code. The department shall grant a hospital an extension of the one hundred eighty day period if the health care financing administration of the United States department of health and human services extends the date by which the hospital must submit its cost report for the hospital's cost reporting period.

(C) The director of ~~human~~ job and family services may adopt rules under section 5112.03 of the Revised Code specifying financial information that must be submitted by hospitals for which no financial statement or cost report is available. The rules shall specify deadlines for submitting the information. Each such hospital shall submit the information specified in the rules not later than the deadline specified in the rules.

Sec. 5112.05. The requirements of sections 5112.06 to 5112.09 of the Revised Code apply only as long as the United States health care financing administration determines that the assessment imposed under section 5112.06 of the Revised Code is a permissible health care-related tax pursuant to section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended. Whenever the department of ~~human~~ job and family services is informed that the assessment is an impermissible health care-related tax, the department shall promptly refund to each hospital the amount of money currently in the hospital care assurance program fund created by section 5112.18 of the Revised Code that has been paid by the hospital under section 5112.06 or 5112.07 of the Revised Code, plus any investment earnings on that amount.

Sec. 5112.06. (A) For the purpose of distributing funds to hospitals under the medical assistance program pursuant to sections 5112.01 to 5112.21 of the Revised Code, there is hereby imposed an assessment on all hospitals. Each hospital's assessment shall be based on total facility costs. All hospitals shall be assessed according to the rate or rates established each program year by the department of ~~human~~ job and family services in rules adopted under section 5112.03 of the Revised Code. The department shall assess all hospitals uniformly and in a manner consistent with federal statutes and regulations. During any program year, the department shall not assess any hospital more than two per cent of the hospital's total facility costs.

The department shall establish an assessment rate or rates each program year that will do both of the following:

(1) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce a program of sufficient size to pay

a substantial portion of the indigent care provided by hospitals;

(2) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce amounts for distribution to disproportionate share hospitals that do not exceed, in the aggregate, the limits prescribed by the United States health care financing administration under subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(f), as amended.

(B)(1) Except as provided in division (B)(3) of this section, each hospital shall pay its assessment in periodic installments in accordance with a schedule established by the director of ~~human~~ job and family services in rules adopted under section 5112.03 of the Revised Code.

(2) The installments shall be equal in amount, unless either of the following applies:

(a) The department makes adjustments during a program year under division (D) of section 5112.09 of the Revised Code in the total amount of hospitals' assessments;

(b) The director of ~~human~~ job and family services determines that adjustments in the amounts of installments are necessary for the administration of sections 5112.01 to 5112.21 of the Revised Code and that unequal installments will not create cash flow difficulties for hospitals.

(3) The director may adopt rules under section 5112.03 of the Revised Code establishing alternate schedules for hospitals to pay assessments under this section in order to reduce hospitals' cash flow difficulties.

Sec. 5112.07. (A) The department of ~~human~~ job and family services may require governmental hospitals to make intergovernmental transfers each program year. The department shall not require transfers in an amount that, when combined with hospital assessments paid under section 5112.06 of the Revised Code and federal matching funds, produce amounts for distribution to disproportionate share hospitals that, in the aggregate, exceed limits prescribed by the United States health care financing administration under subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(f), as amended.

(B) Before or during each program year, the department shall notify each governmental hospital of the amount of the intergovernmental transfer it is required to make during the program year. Each governmental hospital shall make intergovernmental transfers as required by the department under this section in periodic installments, executed by electronic fund transfer, in accordance with a schedule established in rules adopted under section 5112.03 of the Revised Code.

Sec. 5112.08. The director of ~~human~~ job and family services shall adopt

rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of ~~human~~ job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate:

(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;

(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended~~, general assistance established under former Chapter 5113. of the Revised Code,~~ and disability assistance established under Chapter 5115. of the Revised Code;

(3) The amount of uncompensated care provided by the hospital or group of hospitals;

(4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, and shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to

pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund and the hospital care assurance match fund created under section 5112.18 of the Revised Code is insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount is insufficient. The department shall distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. 5112.09. (A) Before or during each program year, the department of ~~human~~ job and family services shall mail to each hospital by certified mail, return receipt requested, the preliminary determination of the amount that the hospital is assessed under section 5112.06 of the Revised Code during the program year. The preliminary determination of a hospital's assessment shall be calculated for a cost-reporting period that is specified in rules adopted under section 5112.03 of the Revised Code.

The department shall consult with hospitals each year when determining the date on which it will mail the preliminary determinations in order to minimize hospitals' cash flow difficulties.

If no hospital submits a request for reconsideration under division (B) of this section, the preliminary determination constitutes the final reconciliation of each hospital's assessment under section 5112.06 of the Revised Code. The final reconciliation is subject to adjustments under division (D) of this section.

(B) Not later than fourteen days after the preliminary determinations are mailed, any hospital may submit to the department a written request to reconsider the preliminary determinations. The request shall be accompanied by written materials setting forth the basis for the reconsideration. If one or more hospitals submit a request, the department shall hold a public hearing not later than thirty days after the preliminary determinations are mailed to reconsider the preliminary determinations. The department shall mail to each hospital a written notice of the date, time, and place of the hearing at least ten days prior to the hearing. On the basis of the evidence submitted to the department or presented at the public hearing, the department shall reconsider and may adjust the preliminary determinations. The result of the reconsideration is the final reconciliation of the hospital's assessment under section 5112.06 of the Revised Code. The final reconciliation is subject to adjustments under division (D) of this section.

(C) The department shall mail to each hospital a written notice of its assessment for the program year under the final reconciliation. A hospital may appeal the final reconciliation of its assessment to the court of common

pleas of Franklin county. While a judicial appeal is pending, the hospital shall pay, in accordance with the schedules required by division (B) of section 5112.06 of the Revised Code, any amount of its assessment that is not in dispute into the hospital care assurance program fund created in section 5112.18 of the Revised Code.

(D) In the course of any program year, the department may adjust the assessment rate or rates established in rules pursuant to section 5112.06 of the Revised Code or adjust the amounts of intergovernmental transfers required under section 5112.07 of the Revised Code and, as a result of the adjustment, adjust each hospital's assessment and intergovernmental transfer, to reflect refinements made by the United States health care financing administration during that program year to the limits it prescribed under subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(f), as amended. When adjusted, the assessment rate or rates must comply with division (A) of section 5112.06 of the Revised Code. An adjusted intergovernmental transfer must comply with division (A) of section 5112.07 of the Revised Code. The department shall notify hospitals of adjustments made under this division and adjust for the remainder of the program year the installments paid by hospitals under sections 5112.06 and 5112.07 of the Revised Code in accordance with rules adopted under section 5112.03 of the Revised Code.

Sec. 5112.10. The department of ~~human~~ job and family services shall operate the hospital care assurance program established by sections 5112.01 to 5112.21 of the Revised Code on a program year basis. The department shall complete all program requirements on or before the thirtieth day of September each year.

Sec. 5112.11. The department of ~~human~~ job and family services shall not use money paid to the department under sections 5112.06 and 5112.07 of the Revised Code or money that the department pays to hospitals under section 5112.08 of the Revised Code to replace any funds appropriated by the general assembly for the medical assistance program.

Sec. 5112.17. (A) As used in this section:

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an

individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline. Recipients of disability assistance under Chapter 5115. of the Revised Code qualify for services under this section. The ~~department~~ director of ~~human~~ job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline are eligible for services without charge;

(b) Specifies the federal poverty guideline for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law.

Sec. 5112.18. (A) Except as provided in section 5112.19 of the Revised Code, all payments of assessments by hospitals under section 5112.06 of the Revised Code and all intergovernmental transfers under section 5112.07 of the Revised Code shall be deposited in the state treasury to the credit of the hospital care assurance program fund, hereby created. All investment earnings of the hospital care assurance program fund shall be credited to the fund. The department of ~~human~~ job and family services shall maintain records that show the amount of money in the hospital care assurance program fund at any time that has been paid by each hospital and the amount of any investment earnings on that amount. All moneys credited to the hospital care assurance program fund shall be used solely to make payments to hospitals under division (D) of this section and section 5112.08 of the Revised Code.

(B) All federal matching funds received as a result of the department distributing funds from the hospital care assurance program fund to hospitals under section 5112.08 of the Revised Code shall be credited to the hospital care assurance match fund, which is hereby created in the state treasury. All money credited to the hospital care assurance match fund shall be used solely for distributing funds to hospitals under section 5112.08 of the Revised Code.

(C) All distributions of funds to hospitals under section 5112.08 of the Revised Code are conditional on:

(1) Expiration of the time for appeals under section 5112.09 of the Revised Code without the filing of an appeal, or on court determinations, in the event of appeals, that the hospital is entitled to the funds;

(2) The availability of sufficient moneys in the hospital care assurance program fund and the hospital care assurance match fund to distribute the funds after the final determination of any appeals;

(3) The hospital's compliance with section 5112.17 of the Revised Code.

(D) If an audit conducted by the department of the amounts of payments made and funds received by hospitals under sections 5112.06, 5112.07, and 5112.08 of the Revised Code identifies amounts that, due to errors by the

department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should not have received but did receive, or should have received but did not receive, the department shall:

(1) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received;

(2) Take action to recover from a hospital any amounts that the audit reveals it should have been required to pay but did not pay or that it should not have received but did receive.

Payments made under division (D)(1) of this section shall be made from the hospital care assurance program fund. Amounts recovered under division (D)(2) of this section shall be deposited to the credit of that fund. Any hospital may appeal the amount the hospital is to be paid under division (D)(1) or the amount that is to be recovered from the hospital under division (D)(2) of this section to the court of common pleas of Franklin county.

Sec. 5112.19. From the first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code during each program year beginning in an odd-numbered calendar year, the department of ~~human~~ job and family services shall deposit into the state treasury to the credit of the legislative budget services fund, which is hereby created, a total amount equal to the amount by which the biennial appropriation from that fund exceeds the amount of unexpended, unencumbered moneys in that fund. All investment earnings of the legislative budget services fund shall be credited to that fund. Money in the legislative budget services fund shall be used solely to pay the expenses of the legislative budget office of the legislative service commission.

Sec. 5112.21. Except as specifically required by sections 5112.01 to 5112.19 of the Revised Code, information filed under those sections shall not include any patient-identifying material. Information that includes patient-identifying material is not a public record under section 149.43 of the Revised Code, and no patient-identifying material shall be released publicly by the department of ~~human~~ job and family services or by any person under contract with the department who has access to such information.

Sec. 5112.31. The department of ~~human~~ job and family services shall:

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit

fee equal to nine dollars and twenty-four cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) Not later than July 1, 1996, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established ~~by the department~~ in rules adopted under section 5112.39 of the Revised Code.

If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, the department shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.32. For the purpose of the franchise permit fee imposed under section 5112.31 of the Revised Code, the department of mental retardation and developmental disabilities shall:

(A) Not later than August 1, 1993, report to the department of ~~human~~ job and family services the number of beds in each intermediate care facility for the mentally retarded certified on July 1, 1993, under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(B) Not later than June 1, 1994, and the first day of each June thereafter, report to the department of ~~human~~ job and family services the number of beds in each such facility certified on the preceding first day of May under that title.

Sec. 5112.33. (A) Not later than the fifteenth day of August of each year, the department of ~~human~~ job and family services shall determine the annual franchise permit fee for each intermediate care facility for the mentally retarded in accordance with section 5112.31 of the Revised Code.

(B) Not later than the first day of September of each year, the department shall mail to each intermediate care facility for the mentally retarded notice of the amount of the franchise permit fee the facility has been assessed under section 5112.31 of the Revised Code.

(C) Each intermediate care facility for the mentally retarded shall pay its fee under section 5112.31 of the Revised Code to the department in quarterly installment payments not later than forty-five days after the last

day of each September, December, March, and June.

Sec. 5112.34. If an intermediate care facility for the mentally retarded fails to pay the full amount of an installment when due, the department of ~~human~~ job and family services may assess a five per cent penalty on the amount due for each month or fraction thereof the installment is overdue.

Sec. 5112.35. (A) An intermediate care facility for the mentally retarded may appeal the franchise permit fee imposed under section 5112.31 of the Revised Code solely on the grounds that the department of ~~human~~ job and family services committed a material error in determining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If an intermediate care facility for the mentally retarded submits a request for an appeal within the time required under division (A) of this section, the department shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the facility. The department may hear all requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the intermediate care facility for the mentally retarded, the department may adjust a fee. The department's decision is final.

Sec. 5112.37. All installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code shall be deposited into the "home and community-based services for the mentally retarded and developmentally disabled fund," which is hereby created in the state treasury. The department of ~~human~~ job and family services shall distribute the money in the fund in accordance with rules adopted under section 5112.39 of the Revised Code. The departments of ~~human~~ job and family services and mental retardation and developmental disabilities shall use the money for the medical assistance program established under Chapter 5111. of the Revised Code and home and community-based services to mentally retarded and developmentally disabled persons.

Sec. 5112.38. The department of ~~human~~ job and family services may make any investigation it considers appropriate to obtain information necessary to fulfill its duties under sections 5112.30 to 5112.39 of the Revised Code. At the request of the department, the attorney general shall aid in any such investigations. The attorney general shall institute and

rosecute all necessary actions for the enforcement of sections 5112.30 to 5112.39 of the Revised Code, except that at the request of the attorney general, the county prosecutor of the county in which an intermediate care facility for the mentally retarded that has failed to comply with those sections is located shall institute and prosecute any necessary action against the facility.

Sec. 5112.39. The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(A) Establish a composite inflation factor with which to adjust franchise permit fees under section 5112.31 of the Revised Code;

(B) Prescribe the actions the department will take to cease implementation of sections 5112.30 to 5112.39 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5112.31 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended;

(C) Establish the method of distributing the money in the home and community-based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;

(D) Establish any other requirements or procedures ~~it~~ the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code.

Sec. 5112.99. (A) The director of ~~human~~ job and family services shall impose a penalty of one hundred dollars for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section.

(B) In addition to any other remedy available to the department of ~~human~~ job and family services under law to collect unpaid assessments and transfers, the director shall impose a penalty of ten per cent of the amount due, not to exceed twenty thousand dollars, on any hospital that fails to pay assessments or make intergovernmental transfers by the dates required by rules adopted under section 5112.03 of the Revised Code.

(C) The director shall waive the penalties provided for in divisions (A) and (B) of this section for good cause shown by the hospital.

(D) All penalties imposed under this section shall be deposited into the general revenue fund.

Sec. 5115.01. (A) There is hereby established the disability assistance program. Except as provided in division (D) of this section, a disability

stance recipient shall receive financial assistance. Except as provided in section 5115.11 of the Revised Code, a disability assistance recipient also shall receive disability assistance medical assistance.

Except as provided by division (B) of this section, a person who meets all of the following requirements is eligible for disability assistance:

(1) The person is ineligible to participate in the Ohio works first program established under Chapter 5107. of the Revised Code and to receive supplemental security income provided pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;

(2) The person is at least one of the following:

(a) Under age eighteen;

(b) Age sixty or older;

(c) Pregnant;

(d) Unable to do any substantial or gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months;

(e) An active participant in an alcohol or drug addiction program certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code, including a former recipient of supplemental security income who lost eligibility for that program because of the enactment of paragraph (b)(1) of section 105 of the "Contract With America Advancement Act of 1996," 110 Stat. 847, 42 U.S.C. 1382c(a)(3). A person on a waiting list to participate in an alcohol or drug addiction program, or otherwise not participating in a program while waiting for treatment services at a program to become available, is not an active participant.

(f) Medication dependent as determined by a physician, as defined in section 4730.01 of the Revised Code, who has certified to the county department of ~~human~~ job and family services that the person is receiving ongoing treatment for a chronic medical condition requiring continuous prescription medication for an indefinite, long-term period of time and for whom the loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.

(3) The person meets the eligibility requirements established ~~by the department of human services~~ in rules adopted under section 5115.05 of the Revised Code.

(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of the following:

(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;

(b) The person's extended eligibility to participate in the Ohio works first program made possible by the earned income disregard established under division (D)(2) of section 5107.10 of the Revised Code has ceased due to the limited number of months the disregard is applied;

(c) The time limit established by section 5107.18 of the Revised Code;

(d) Failure to comply with an application or verification procedure;

(e) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.

(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same ineligible assistance group. A person age eighteen or older is ineligible for disability assistance pursuant to division (B)(1)(a) of this section regardless of whether the person caused the assistance group to be ineligible to participate in the Ohio works first program.

(C) The county department of ~~human~~ job and family services that serves the county in which a person receiving disability assistance pursuant to division (A)(2)(e) of this section participates in an alcohol or drug addiction program shall designate a representative payee for purposes of receiving and distributing financial assistance provided under the disability assistance program to the person.

(D) A person eligible for disability assistance pursuant to division (A)(2)(f) of this section shall not receive financial assistance.

(E) The ~~department~~ director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code defining terms and establishing standards for determining whether a person meets a condition of disability assistance eligibility pursuant to this section.

Sec. 5115.011. The ~~department~~ director of ~~human~~ job and family services shall adopt rules in accordance with section 111.15 of the Revised Code defining "assistance group" and "family group" for the purpose of this chapter. The rules may provide that "assistance group" means a group of applicants for or recipients of aid under this chapter treated as a unit for purposes of determining eligibility for and the amount of aid provided under this chapter. The rules may provide that "family group" means the members of an assistance group and persons related by blood or marriage to a member of the assistance group who lives in the same household as the assistance group.

Sec. 5115.012. Not later than July 1, 1997, and the first day of each July

thereafter, the department of ~~human~~ job and family services shall provide to the general assembly a report on all of the following:

(A) The number of assistance groups denied eligibility for disability assistance pursuant to division (B) of section 5115.01 of the Revised Code during the year the report covers and the number of children in those assistance groups;

(B) The number of children who required services from a public children services agency~~, as defined in section 2151.011 of the Revised Code,~~ as a result of denial of disability assistance pursuant to division (B) of section 5115.01 of the Revised Code during the year the report covers;

(C) The impact the need for the children services had on counties.

Sec. 5115.02. (A) The ~~state~~ department of ~~human~~ job and family services shall supervise and administer the disability assistance program, except that the ~~state~~ department may require county departments of ~~human~~ job and family services to perform any administrative function specified in rules adopted by the ~~department~~ director of job and family services, including making determinations of financial eligibility and initial determinations of whether an applicant meets a condition of eligibility under division (A)(2)(d) of section 5115.01 of the Revised Code, distributing financial assistance payments, reimbursing providers of medical services for services provided to disability assistance recipients, and any other function specified in the rules. The ~~state~~ department may also require county departments to make a final determination of whether an applicant meets a condition for eligibility under division (A)(2)(a), (b), (c), (e), or (f) of section 5115.01 of the Revised Code. The ~~state~~ department shall make the final determination of whether an applicant meets a condition of eligibility under division (A)(2)(d) of section 5115.01 of the Revised Code.

(B) If the ~~state~~ department requires county departments to perform administrative functions under this section, the ~~state department~~ director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules.

(C) If financial assistance payments or medical services reimbursements are made by the county department of ~~human~~ job and family services, the ~~state~~ department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments or reimbursements. Financial assistance payments shall be distributed in accordance with sections 117.45, 319.16, and 329.03 of the Revised Code.

Sec. 5115.03. The ~~state department~~ director of ~~human~~ job and family

services shall do both of the following:

(A) Adopt rules governing the administration of disability assistance, including the administration of financial assistance and disability assistance medical assistance. The rules shall be binding on county departments of ~~human~~ job and family services.

(B) Make investigations to determine whether disability assistance is being administered in compliance with the Revised Code and rules adopted by the ~~state department~~ director.

Sec. 5115.05. The ~~state department~~ director of ~~human~~ job and family services shall adopt rules establishing application and verification procedures, reapplication procedures, and income, resource, citizenship, age, residence, living arrangement, assistance group composition, and other eligibility requirements for disability assistance. The rules may provide for disregarding amounts of earned and unearned income for the purpose of determining whether an assistance group is eligible for assistance and the amount of assistance provided under this chapter. The rules also may provide that the income and resources, or a certain amount of the income and resources, of a member of an assistance group's family group will be included in determining whether the assistance group is eligible for aid and the amount of aid provided under this chapter.

If financial assistance under this chapter is to be paid by the auditor of state through the medium of direct deposit, the application shall be accompanied by information the auditor needs to make direct deposits.

The ~~state~~ department of job and family services may require recipients of disability assistance to participate in a reapplication process two months after initial approval for assistance has been determined and at such other times as the ~~state~~ department requires.

If a recipient of disability assistance, or the spouse of or member of the assistance group of a recipient, becomes possessed of resources or income in excess of the amount allowed under rules adopted ~~by the state department~~ under this section, or if other changes occur that affect the person's eligibility or need for assistance, the recipient shall notify the ~~state~~ department or county department of ~~human~~ job and family services within the time limits specified in the rules. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.15 of the Revised Code.

Each applicant for or recipient of disability assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, as a means of

preventing or reducing the provision of disability assistance at public expense. The ~~state~~ department or county department may provide assistance to the applicant or recipient in securing other forms of financial or medical assistance.

Notwithstanding section 3109.01 of the Revised Code, when a disability assistance applicant or recipient who is at least eighteen but under twenty-two years of age resides with the applicant's or recipient's parents, the income of the parents shall be taken into account in determining the applicant's or recipient's financial eligibility. The ~~state department~~ director shall adopt rules for determining the amount of income to be attributed to the assistance group of applicants in this age category.

Any person who applies for assistance under this section shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. 5115.061. In determining the eligibility of an assistance group for assistance under this chapter, the department of ~~human~~ job and family services shall exclude from the income and resources applicable to the assistance group the value of any tuition payment contract entered into under section 3334.09 of the Revised Code or any scholarship awarded under section 3334.18 of the Revised Code and the amount of payments made by the Ohio tuition trust authority under section 3334.09 of the Revised Code pursuant to the contract or scholarship. The department shall not require any person to terminate a tuition payment contract entered into under Chapter 3334. of the Revised Code as a condition of an assistance group's eligibility for assistance under this chapter. The department, however, shall consider as income any refund paid under section 3334.10 of the Revised Code to a member of the assistance group.

Sec. 5115.07. Financial assistance under the disability assistance program may be given by warrant, direct deposit, or, if provided by the director of ~~human~~ job and family services pursuant to section 5101.33 of the Revised Code, by electronic benefit transfer. It shall be inalienable whether by way of assignment, charge, or otherwise, and is exempt from attachment, garnishment, or other like process. Any direct deposit shall be made to a financial institution and account designated by the recipient. The ~~state department~~ director of ~~human~~ job and family services may adopt rules for designation of financial institutions and accounts. No financial institution shall impose any charge for direct deposit of disability assistance financial assistance payments that it does not charge all customers for similar services.

The ~~state~~ department of ~~human~~ job and family services shall establish financial assistance payment amounts based on state appropriations.

Disability assistance may be given to persons living in their own homes or other suitable quarters, but shall not be given to persons who reside in a county home, city infirmary, jail, or public institution. Disability assistance shall not be given to an unemancipated child unless the child lives with ~~his~~ the child's parents, guardians, or other persons standing in place of parents. For the purpose of this section, a child is emancipated if ~~he~~ the child is married, serving in the armed forces, or has been emancipated by court order.

No person shall be eligible for disability assistance if, for the purpose of avoiding consideration of property in determinations of ~~his~~ the person's eligibility for disability assistance or a greater amount of assistance, ~~he~~ the person has transferred property during the two years preceding ~~his~~ application for or most recent redetermination of eligibility for disability assistance.

Sec. 5115.10. (A) The disability assistance medical assistance program shall consist of a system of managed primary care. Until July 1, 1992, the program shall also include limited hospital services, except that if prior to that date hospitals are required by section 5112.17 of the Revised Code to provide medical services without charge to persons specified in that section, the program shall cease to include hospital services at the time the requirement of section 5112.17 of the Revised Code takes effect.

The ~~state~~ department of ~~human~~ job and family services may require disability assistance medical assistance recipients to enroll in health insuring corporations or other managed care programs, or may limit the number or type of health care providers from which a recipient may receive services.

The ~~state department~~ director of job and family services shall adopt rules governing the disability assistance medical assistance program established under this division. The rules shall specify all of the following:

(1) Services that will be provided under the system of managed primary care;

(2) Hospital services that will be provided during the period that hospital services are provided under the program;

(3) The maximum authorized amount, scope, duration, or limit of payment for services.

(B) The director of ~~human~~ job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The director may require that, as a condition of being designated a disability assistance medical assistance provider, a

provider enter into a provider agreement with the state department.

(C) As long as the disability assistance medical assistance program continues to include hospital services, the ~~state~~ department or a county director of ~~human~~ job and family services may, pursuant to rules adopted ~~by the state department~~ under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the time the care was rendered, if all of the following apply:

(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division (D) of this section are met, while in the hospital;

(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;

(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted by the ~~department~~ director of ~~human~~ job and family services.

(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face-to-face interview shall be conducted with the applicant while the applicant is in the hospital to determine whether the applicant is eligible for the assistance. If the hospital agrees to reimburse the county department of ~~human~~ job and family services for all actual costs incurred by the department in conducting the interview, the interview shall be conducted by an employee of the county department. If, at the request of the hospital, the county department designates an employee of the hospital to conduct the interview, the interview shall be conducted by the hospital employee.

(E) The ~~state~~ department of ~~human~~ job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance.

Sec. 5115.13. The acceptance of disability assistance under this chapter constitutes an assignment to the department of ~~human~~ job and family services of any rights an individual receiving disability assistance has to support from any other person, excluding medical support assigned pursuant to section 5101.59 of the Revised Code. The rights to support assigned to the department pursuant to this section constitute an obligation of the person responsible for providing the support to the state for the amount of disability assistance payments to the recipient or recipients whose needs are included in determining the amount of disability assistance received. Support payments assigned to the state pursuant to this section shall be collected by

the county department of ~~human~~ job and family services and reimbursements for disability assistance payments shall be credited to the state treasury.

Sec. 5115.15. As used in this section, "erroneous payments" means disability assistance payments, including disability assistance medical assistance payments, made to persons who are not entitled to receive them, including payments made as a result of misrepresentation or fraud, and payments made due to an error by the recipient or by the county department of ~~human~~ job and family services that made the payment.

The ~~state~~ department of ~~human~~ job and family services, or a county department of ~~human~~ job and family services at the request of the ~~state~~ department, shall take action to recover erroneous payments. The ~~state~~ department or county department may institute a civil action to recover erroneous payments.

Whenever disability assistance has been furnished to a recipient for whose support another person is responsible, the other person shall, in addition to the liability otherwise imposed, as a consequence of failure to support the recipient, be liable for all disability assistance furnished the recipient. The value of the assistance so furnished may be recovered in a civil action brought by the county department of ~~human~~ job and family services.

Each county department of ~~human~~ job and family services shall retain fifty per cent of the erroneous payments it recovers under this section. The ~~state~~ department of ~~human~~ job and family services shall receive the remaining fifty per cent.

Sec. 5115.20. (A) The ~~state~~ department of ~~human~~ job and family services shall establish a disability advocacy program and each county department of ~~human~~ job and family services shall establish a disability advocacy program unit or join with other county departments of ~~human~~ job and family services to establish a joint county disability advocacy program unit. Through the program the ~~state~~ department and county departments shall cooperate in efforts to assist applicants for and recipients of assistance under this chapter who might be eligible for supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those benefits. The state department and county departments may enter into contracts for services to applicants for and recipients of assistance under this chapter who might be eligible for supplemental security income benefits with persons and governmental entities that in the judgment of the ~~state~~ department or county department have demonstrated expertise in representing persons seeking

supplemental security income benefits. Each contract shall require the person or entity with which a department contracts to assess each person referred to it by the department to determine whether the person appears to be eligible for supplemental security income benefits, and, if the person appears to be eligible, assist ~~him~~ the person in applying and represent ~~him~~ the person in any proceeding of the social security administration, including any appeal or reconsideration of a denial of benefits. The ~~state~~ department or county department shall provide to the person or entity with which it contracts all records in its possession relevant to the application for supplemental security income benefits. The ~~state~~ department shall require a county department with relevant records to submit them to the person or entity.

(B) Each applicant for or recipient of assistance under this chapter who, in the judgment of the ~~state~~ department or a county department might be eligible for supplemental security benefits, must, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the ~~state~~ department or county department.

(C) Each county department of ~~human~~ job and family services shall do all of the following:

(1) Identify applicants for and recipients of assistance under this chapter who might be eligible for supplemental security income benefits;

(2) Assist applicants for and recipients of assistance under this chapter in securing documentation of disabling conditions or refer them for such assistance to a person or government agency with which the ~~state~~ department or county department has contracted under division (A) of this section;

(3) Inform applicants for and recipients of assistance under this chapter of available sources of representation, which may include a person or government entity with which the ~~state~~ department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government agency with which the ~~state~~ department or county department has contracted under division (A) of this section.

(4) Require applicants for and recipients of assistance under this chapter

who, in the judgment of the county department, are or may be aged, blind, or disabled, to apply for medical assistance under Chapter 5111. of the Revised Code, make determinations when appropriate as to eligibility for medical assistance, and refer their applications when necessary to the disability determination unit established in accordance with division (F) of this section for expedited review;

(5) Require each applicant for and each recipient of assistance under this chapter who in the judgment of the ~~state~~ department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for assistance under this chapter, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of ~~human~~ job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The ~~state department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of disabled recipients of assistance under this chapter in the county;

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of ~~human~~ job and family services to the employees of the county department of ~~human~~ job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The ~~state~~ department shall provide basic and continuing training to employees of the county department of ~~human~~ job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The ~~state~~ department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical

assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The ~~state~~ department may, under rules ~~it~~ the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or agencies that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

Sec. 5119.221. (A) Upon petition by the director of mental health, the court of common pleas or the probate court may appoint a receiver to take possession of and operate a residential facility licensed pursuant to section 5119.22 of the Revised Code, when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents.

Petitions filed pursuant to this section shall include:

(1) A description of the specific conditions existing at the residential facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the residential facility as a pattern or practice; and

(5) The name and address of the person holding the license for the residential facility.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility of the filing. The department shall send notice of the filing to the following, as appropriate: the legal rights service created pursuant to section 5123.60 of the Revised Code; facility owner; facility operator; board of alcohol, drug addiction, and mental health services; board of health; department of mental retardation and developmental disabilities; department of ~~human~~ job and family services; facility residents; and residents' families and guardians. The court shall provide a hearing on the petition within five court days of the time it

was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action.

Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of mental health and appropriate persons of this action.

In setting forth the powers of the receiver, the court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver and shall require regular and detailed reports.

(C) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of mental health.

(D) Except for the department of mental health or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of the department of mental health shall maintain a list of the names of such persons. The department of mental health, the department of ~~human~~ job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before ~~a receiver enters~~ entering upon ~~his~~ the duties of receiver, ~~he~~ the receiver must be sworn to perform ~~his~~ the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in

such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court ~~which appointed him~~, a receiver may do the following:

(a) Bring and defend actions in ~~his~~ the appointee's name as receiver;

(b) Take and keep possession of property.

(2) The court shall authorize the receiver to do the following:

(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;

(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:

(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(ii) Providing for the transportation of residents' belongings and records;

(iii) Helping to locate alternative placements and develop plans for transfer;

(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.

(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the board of alcohol, drug addiction, and mental health services. Each report shall be made available to residents, their guardians, and families.

(e) Compromise demands or claims; and

(f) Generally do such acts respecting the residential facility as the court authorizes.

Notwithstanding any other provision of law, contracts which are necessary to carry out the powers and duties of the receiver need not be competitively bid.

Sec. 5120.37. The department of rehabilitation and correction shall enter into an agreement with the department of ~~human~~ job and family services to

exchange or share information monthly concerning persons under the control or supervision of the department of rehabilitation and correction.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of mental retardation and developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study including a sequence of observations and examinations of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of mentally retarded or developmentally disabled persons, which group shall include individuals who are professionally qualified in the fields of medicine, education, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(G) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

(H) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

(I) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(J) "Managing officer" means a person who is appointed by the director of mental retardation and developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(K) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(L) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(M) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(N) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(O) "Developmentally disabled person" means a person with a developmental disability.

(P) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(Q) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, disability assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of ~~human~~ job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in

another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, disability assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(R)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(S) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(T) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would

have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Court" means the probate division of the court of common pleas.

Sec. 5123.181. The director of mental retardation and developmental disabilities and the director of ~~human~~ job and family services shall, in concert with each other, eliminate all double billings and double payments for services on behalf of mentally retarded and developmentally disabled persons in intermediate care facilities. The department of mental retardation and developmental disabilities may enter into contracts with providers of services for the purpose of making payments to such providers for services rendered to eligible clients who are mentally retarded or developmentally disabled persons over and above the services authorized and paid under Chapter 5111. of the Revised Code. Payments authorized under this section and section 5123.18 of the Revised Code shall not be subject to audit findings pursuant to Chapter 5111. of the Revised Code unless such audit determines that payment was made to the provider for services that were not rendered in accordance with the provisions of the provider agreement entered into with the department of ~~human~~ job and family services or the department of mental retardation and developmental disabilities pursuant to this section.

Sec. 5123.191. (A) The court of common pleas or a judge thereof in ~~his~~ the judge's county, or the probate court, may appoint a receiver to take possession of and operate a residential facility licensed by the department of mental retardation and developmental disabilities, in causes pending in such courts respectively, when conditions existing at the facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents. Conditions at the facility that may present such risk of harm include, but are not limited to, instances when any of the following occur:

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall

notify the person holding the license for the facility and the department of mental retardation and developmental disabilities of the filing. The court shall order the department to notify the legal rights service, facility owner, facility operator, county board of mental retardation and developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of mental retardation and developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of mental retardation and developmental disabilities.

(G) The department of mental retardation and developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, a county board of mental retardation and developmental disabilities, or the legal rights service, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the facility as a pattern or practice;

(5) The name and address of the person holding the license for the facility and the address of the department of mental retardation and developmental disabilities.

The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator.

(H) Except for the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of mental retardation and developmental disabilities or ~~his~~ the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

(I) Before a receiver enters upon ~~his~~ the duties of that person, ~~he~~ the receiver must be sworn to perform ~~his~~ the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(J) Under the control of the appointing court ~~which appointed him~~, a receiver may bring and defend actions in ~~his~~ the receiver's own name as receiver and take and keep possession of property.

The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership;

(c) If the court determines that the cost of the lease, mortgage, or secured transaction was increased by a transaction required to be reported under division (B)(3) of section 5123.172 of the Revised Code, only to the extent determined by the court to be the fair market value for use of the property during the period of the receivership.

(3) If transfer of residents is necessary, provide for the orderly transfer of residents by doing the following:

(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(b) Providing for the transportation of residents' belongings and records;

(c) Helping to locate alternative placements and develop discharge plans;

(d) Preparing residents for the trauma of discharge;

(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.

(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of mental retardation and developmental disabilities, parents, guardians, and residents;

(5) Compromise demands or claims;

(6) Generally do such acts respecting the residential facility as the court authorizes.

(K) Neither the receiver nor the department of mental retardation and developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.

(L) The department of mental retardation and developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. A condition may be the same as, similar to, or different from a condition established by section 5123.18 of the Revised Code and the rules adopted under that section for a contract entered into under that section. Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.

(M) The department of mental retardation and developmental disabilities, the department of ~~human~~ job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Sec. 5123.604. (A) No one shall take a discriminatory, disciplinary, or retaliatory action against any officer or employee of a provider, any mentally retarded, developmentally disabled, or mentally ill person, the parents or guardian of a mentally retarded, developmentally disabled, or mentally ill person, or any volunteer or advocate for a mentally retarded, developmentally disabled, or mentally ill person, for any communication these persons make or information they disclose in good faith to the ~~ombudsman~~ ombudsperson section of the legal rights service.

(B) No person shall knowingly interfere with lawful actions of the ~~ombudsman~~ ombudsperson section, refuse entry to its representatives, fail to comply with its lawful demands, or offer any compensation, gratuity, or promise thereof in an effort to influence the outcome of any matter being considered by the section.

(C) The department of mental retardation and developmental disabilities shall immediately notify the ~~ombudsman~~ ombudsperson section of all investigations of major unusual incidents or life-threatening situations, as

defined in rules adopted by the department, involving mentally retarded and developmentally disabled persons, and shall furnish copies of all relevant reports within forty-eight hours after receipt. The department of mental health shall notify the ~~ombudsman~~ ombudsperson section of all major unusual incidents or life-threatening situations, as defined in rules adopted by the department, involving mentally ill persons within forty-eight hours after receipt of the report of the incident or situation. The departments of health and ~~human~~ job and family services shall notify the department of mental retardation and developmental disabilities of all allegations and investigations of abuse, neglect, or life-threatening situations involving mentally retarded or developmentally disabled persons. Any other state agency with information concerning abuse, neglect, or life-threatening situations involving mentally retarded or developmentally disabled persons shall report that information immediately to the department of mental retardation and developmental disabilities.

Nothing in this section or section 5123.60, 5123.601, or 5123.602 of the Revised Code shall preclude any department or board, its contract agencies, a community residential facility, or other governmental entity from carrying out its responsibility as prescribed by law.

Sec. 5126.31. (A) A county board of mental retardation and developmental disabilities shall review reports of abuse and neglect made under section 5123.61 of the Revised Code and reports referred to it under section 5101.611 of the Revised Code to determine whether the person who is the subject of the report is a mentally retarded or developmentally disabled adult in need of services to deal with the abuse or neglect. The board shall give notice of each report to the registry office of the department of mental retardation and developmental disabilities established pursuant to section 5123.61 of the Revised Code on the first working day after receipt of the report. If the report alleges that there is a substantial risk to the adult of immediate physical harm or death, the board shall initiate review within twenty-four hours of its receipt of the report. If the board determines that the person is sixty years of age or older but is not mentally retarded or developmentally disabled, it shall refer the case to the county department of ~~human~~ job and family services. If the board determines that the person is a mentally retarded or developmentally disabled adult, it shall continue its review of the case.

(B) For each review over which the board retains responsibility under division (A) of this section, it shall do all of the following:

(1) Give both written and oral notice of the purpose of the review to the adult and, if any, to ~~his~~ the adult's legal counsel or caretaker, in simple and

clear language;

(2) Visit the adult, in ~~his~~ the adult's residence if possible, and explain the notice given under division (B)(1) of this section;

(3) Request from the registry office any prior reports concerning the adult or other principals in the case;

(4) Consult, if feasible, with the person who made the report under section 5101.61 or 5123.61 of the Revised Code and with any agencies or persons who have information about the alleged abuse or neglect;

(5) Cooperate fully with the law enforcement agency responsible for investigating the report and for filing any resulting criminal charges and, on request, turn over evidence to the agency;

(6) Determine whether the adult needs services, and prepare a written report stating reasons for the determination. No adult shall be determined to be abused, neglected, or in need of services for the sole reason that, in lieu of medical treatment, ~~he~~ the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which ~~he~~ the adult is a member or adherent.

(C) The board shall arrange for the provision of services for the prevention, correction or discontinuance of abuse or neglect or of a condition resulting from abuse or neglect for any adult who has been determined to need the services and consents to receive them. These services may include, but are not limited to, case management, fiscal management, medical, mental health, home health care, homemaker, legal, and residential services and the provision of temporary accommodations and necessities such as food and clothing. The services do not include acting as a guardian, trustee, or protector as defined in section 5123.55 of the Revised Code. If the provision of residential services would require expenditures by the department of mental retardation and developmental disabilities, the board shall obtain the approval of the department prior to arranging the residential services.

To arrange services, the board shall:

(1) Develop an ~~individual~~ INDIVIDUALIZED service plan identifying the types of services required for the adult, the goals for the services, and the persons or agencies that will provide them;

(2) In accordance with rules established by the director of mental retardation and developmental disabilities, obtain the consent of the adult or ~~his~~ the adult's guardian to the provision of any of these services and obtain the signature of the adult or guardian on the individual service plan. An adult who has been found incompetent under Chapter 2111. of the Revised

Code may consent to services. If the board is unable to obtain consent, it may seek, if the adult is incapacitated, a court order pursuant to section 5126.33 of the Revised Code authorizing the board to arrange these services.

(D) The board shall ensure that the adult receives the services arranged by the board from the provider and shall have the services terminated if the adult withdraws consent.

(E) On completion of a review, the board shall submit a written report to the law enforcement agency responsible for investigating the report and to the registry office. Reports prepared under this section are not public records as defined in section 149.43 of the Revised Code.

(F) The board shall provide comprehensive formal training for employees and other persons authorized to implement the requirements of this section.

Sec. 5139.08. The department of youth services may enter into an agreement with the director of rehabilitation and correction pursuant to which the department of youth services, in accordance with division (C)(2) of section 5139.06 and section 5120.162 of the Revised Code, may transfer to a correctional medical center established by the department of rehabilitation and correction, children who are within its custody for diagnosis or treatment of an illness, physical condition, or other medical problem. The department of youth services may enter into any other agreements with the director of ~~human~~ job and family services, the director of mental health, the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, with the courts having probation officers or other public officials, and with private agencies or institutions for separate care or special treatment of children subject to the control of the department of youth services. The department of youth services may, upon the request of a juvenile court not having a regular probation officer, provide probation services for such court.

Upon request by the department of youth services, any public agency or group care facility established or administered by the state for the care and treatment of children and youth shall, consistent with its functions, accept and care for any child whose custody is vested in the department in the same manner as it would be required to do if custody had been vested by a court in such agency or group care facility. If the department has reasonable grounds to believe that any child or youth whose custody is vested in it is mentally ill or mentally retarded, the department may file an affidavit under section 5122.11 or 5123.76 of the Revised Code. The department's affidavit for admission of a child or youth to such institution shall be filed with the probate court of the county from which the child was committed to the

department. Such court may request the probate court of the county in which the child is held to conduct the hearing on the application, in which case the court making such request shall bear the expenses of the proceeding. If the department files such an affidavit, the child or youth may be kept in such institution until a final decision on the affidavit is made by the appropriate court.

Sec. 5139.34. (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions (C)(2)(a) and (3)(a) of section 5139.43 of the Revised Code and the rules pertaining to the state subsidy funds that the department adopts pursuant to division (E) of section 5139.04 of the Revised Code. The department shall not grant financial assistance pursuant to this section for the provision of care and services for children in a foster care facility unless the facility has been certified, licensed, or approved by a state agency with certification, licensure, or approval authority, including, but not limited to, the department of ~~human~~ job and family services, department of education, department of mental health, or department of mental retardation and developmental disabilities. For the purposes of this section, foster care facilities do not include a state institution or a county or district children's home.

The department also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division (E) of section 5139.04 of the Revised Code have been satisfied.

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of making grants pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated shall be distributed on a per capita basis to each county that has a population

of more than twenty-five thousand for that portion of the population of the county that exceeds twenty-five thousand.

(C)(1) Prior to a county's receipt of an annual grant pursuant to this section, the juvenile court that serves the county shall prepare, submit, and file in accordance with division (C)(3)(a) of section 5139.43 of the Revised Code an annual grant agreement and application for funding that is for the combined purposes of, and that satisfies the requirements of, this section and section 5139.43 of the Revised Code. In addition to the subject matters described in division (C)(3)(a) of section 5139.43 of the Revised Code or in the rules that the department adopts to implement that division, the annual grant agreement and application for funding shall address fiscal accountability and performance matters pertaining to the programs, care, and services that are specified in the agreement and application and for which state subsidy funds granted pursuant to this section will be used.

(2) The county treasurer of each county that receives an annual grant pursuant to this section shall deposit the state subsidy funds so received into the county's felony delinquent care and custody fund created pursuant to division (C)(1) of section 5139.43 of the Revised Code. Subject to exceptions prescribed in section 5139.43 of the Revised Code that may apply to the disbursement, the department shall disburse the state subsidy funds to which each county is entitled as follows:

(a) Except as provided in division (C)(2)(b) of this section, the department shall disburse the state subsidy funds to which a county is entitled in a lump sum payment that shall be made in July of each calendar year.

(b) In the case of state subsidy funds to which a county is entitled for fiscal year 1998, the department shall disburse the state subsidy funds to the county in two distinct payments in accordance with this division. The department shall disburse seventy-five per cent of those state subsidy funds to the county in July 1997. After the department reviews and reconciles the applicable reports that the juvenile court of the county is required to prepare and submit to the department pursuant to section 5139.43 of the Revised Code, the department shall disburse to the county in October 1997, the remainder of the state subsidy funds to which the county is entitled.

(3) Upon an order of the juvenile court that serves a county and subject to appropriation by the board of county commissioners of that county, a county treasurer shall disburse from the county's felony delinquent care and custody fund the state subsidy funds granted to the county pursuant to this section for use only in accordance with this section, the applicable provisions of section 5139.43 of the Revised Code, and the county's

approved annual grant agreement and application for funding.

(4) The moneys in a county's felony delinquent care and custody fund that represent state subsidy funds granted pursuant to this section are subject to appropriation by the board of county commissioners of the county; shall be disbursed by the county treasurer as required by division (C)(3) of this section; shall be used in the manners referred to in division (C)(3) of this section; shall not revert to the county general fund at the end of any fiscal year; shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year; shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs, care, or services for alleged or adjudicated delinquent children, unruly children, or juvenile traffic offenders or for children who are at risk of becoming delinquent children, unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony deliquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions (C)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5139.39. The department of youth services, in the manner provided in this chapter and Chapter 2151. of the Revised Code, may transfer to a foster care facility certified by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code, any child committed to it and, in the event of a transfer of that nature, unless otherwise mutually agreed, the department of youth services shall bear the cost of care and services provided for the child in the foster care facility. A juvenile court may transfer to any foster facility certified by the department of ~~human~~ job and family services any child between twelve and eighteen years of age, other than a psychotic or mentally retarded child, who has been designated a delinquent child and placed on probation by order of the juvenile court as a result of having violated any law of this state or the United States or any ordinance of a political subdivision of this state.

Sec. 5153.01. (A) As used in the Revised Code, "public children

services agency" means an entity specified in section 5153.02 of the Revised Code that has assumed the powers and duties of the children services function prescribed by this chapter for a county.

(B) As used in this chapter:

(1) "Babysitting care" means care provided for a child while the parents, guardian, or legal custodian of the child are temporarily away.

(2) "Certified family foster home" means a family foster home operated by a person holding a certificate issued pursuant to section 5103.03 of the Revised Code that is in full force and effect.

(3) "Certified organization" means any organization holding a certificate issued pursuant to section 5103.03 of the Revised Code that is in full force and effect.

(4) "Child" means any person under eighteen years of age or a mentally or physically handicapped person, as defined by rule ~~of~~ adopted by the ~~department~~ director of ~~human~~ job and family services, under twenty-one years of age.

(5) "Executive director" means the person charged with the responsibility of administering the powers and duties of a public children services agency appointed pursuant to section 5153.10 of the Revised Code.

(6) "Family foster home" means a private residence in which children are received apart from their parents, guardian, or legal custodian by an individual for hire, gain, or reward for nonsecure care, supervision, or training twenty-four hours a day. "Family foster home" does not include babysitting care provided for a child in the home of a person other than the home of the parents, guardian, or legal custodian of the child.

(7) "Foster home" means a family home in which any child is received, apart from the child's parents, for care, supervision, or training.

(8) "Organization" means any public, semipublic, or private institution, including maternity homes and day nurseries, and any private association, society, or agency, located or operating in this state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children or the placement of children in foster homes or elsewhere.

Sec. 5153.02. Each county shall have a public children services agency. Any of the following may be the public children services agency:

(A) A county children services board;

(B) A county department of ~~human~~ job and family services;

(C) A private or government entity designated under section 307.981 of the Revised Code.

Sec. 5153.10. Each public children services agency shall designate an

xecutive officer known as the "executive director," who shall not be in the classified civil service. The superintendent of the children's home, the county director of ~~human~~ job and family services, or other individual may serve as the executive director.

The agency shall, from time to time, inquire into community conditions affecting the welfare of children and study the work of the agency and its relation to the work of other organizations whose functions are related to child welfare. The agency may, after consultation with the executive director, adopt rules of general application, not inconsistent with law or with the rules ~~of~~ adopted by the ~~department~~ director of ~~human~~ job and family services.

Sec. 5153.111. (A)(1) The executive director of a public children services agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the agency for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the executive director shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the executive director may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed

pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, that agency shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the ~~department~~ director of ~~human~~ job and family services in accordance with division (E) of this section, no public children services agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A public children services agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each public children services agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal

records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the executive director of the agency.

(2) A public children services agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the public children services agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The ~~department~~ director of ~~human~~ job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a public children services agency may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with the agency as a person responsible for the care, custody, or control of a child.

(2) "Criminal records check" has the same meaning as in section

2 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 5153.121. (A) The board of county commissioners and the county children services board may agree to permit any employee of the department of ~~human~~ job and family services also to perform duties for the county children services board, or to permit any employee of the county children services board also to perform duties for the department of ~~human~~ job and family services.

(B) An agreement made under division (A) of this section may require the board of county commissioners to pay a portion of the wages of any employee of the county children services board who also performs duties for the department of ~~human~~ job and family services or require the county children services board to pay a portion of the wages of any employee of the department of ~~human~~ job and family services who also performs duties for the county children services board.

Sec. 5153.14. The executive director shall prepare and submit an annual report to the public children services agency at the end of each calendar year and shall file copies of such report with the department of ~~human~~ job and family services, the board of county commissioners, and the juvenile court. The executive director shall submit the inspection reports required under section 5153.16 of the Revised Code and such other reports as are required by law, by the rules of the ~~department~~ director of ~~human~~ job and family services, or by the board of county commissioners to specified governmental bodies and officers and shall provide reports to the public, when so authorized.

Sec. 5153.15. The powers and duties enumerated in sections 5153.16 to 5153.19 of the Revised Code, with respect to the care of children, needing or likely to need public care or services, shall be vested in a single agency of county government, namely, a county department of ~~human~~ job and family services or a county children services board.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the department of ~~human~~ job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of ~~human~~ job and

family services, department of mental health, department of mental retardation and developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;

(5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(8) Find family foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

(9) Subject to the approval of the board of county commissioners and the state department of ~~human~~ job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure family foster homes for this purpose;

(11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of ~~human~~ job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the companionship or visitation rights;

(13) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(14) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted ~~by the state department of human services~~ under section 5101.141 of the Revised Code;

(15) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(16) Implement a system of risk assessment, in accordance with rules adopted by the ~~state department~~ director of ~~human~~ job and family services, to assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with the partnership agreement the board enters into under section 307.98 of the Revised Code and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in

accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code and may use the system at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the ~~department~~ director of ~~human~~ job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, treatment foster care for the care of children in a treatment foster home, as defined in section 5103.02 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of ~~human~~ job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;

(iii) County boards of mental retardation and developmental disabilities;

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

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

(B)(1) If a public children services agency considers a child with special needs residing in the county served by the agency to be in need of public care or protective services and all of the following apply, the agency shall enter into an agreement with the child's adoptive parent before the child is adopted under which the agency shall make payments as needed on behalf of the child:

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

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

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

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

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

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

Payments under division (B) of this section may begin either before or after issuance of the final adoption decree, except that payments made before issuance of the final adoption decree may be made only while the child is living in the adoptive parent's home. Preadoption payments may be made for not more than twelve months, unless the final adoption decree is not issued within that time because of a delay in court proceedings. Payments that begin before issuance of the final adoption decree may continue after its issuance.

(C) If a public children services agency considers a child residing in the county served by the agency to be in need of public care or protective services and both of the following apply, the agency may, and to the extent state funds are appropriated for this purpose shall, enter into an agreement

with the child's adoptive parent after the child is adopted under which the agency shall make payments on behalf of the child as needed:

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

(a) Existed before the adoption petition was filed;

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

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

Payments to an adoptive parent under this division shall include medical, surgical, psychiatric, psychological, and counseling expenses, but shall not include maintenance costs.

(D) No payment shall be made under division (B) or (C) of this section on behalf of any person twenty-one years of age or older. Payments under those divisions shall be made in accordance with the terms of the agreement between the public children services agency and the adoptive parent, subject to an annual redetermination of need. The agency may use sources of funding in addition to any state funds appropriated for the purposes of those divisions.

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

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

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

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

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

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

d family services. No agency that fails to so determine, redetermine, and report shall receive more than fifty per cent of the state funds to which it would otherwise be eligible for that part of the fiscal year following placement under section 5101.14 of the Revised Code.

Sec. 5153.17. The public children services agency shall prepare and keep written records of investigations of families, children, and foster homes, and of the care, training, and treatment afforded children, and shall prepare and keep such other records as are required by the department of ~~human~~ job and family services. Such records shall be confidential, but, except as provided by division (B) of section 3107.17 of the Revised Code, shall be open to inspection by the agency, the director of the county department of ~~human~~ job and family services, and by other persons, upon the written permission of the executive secretary.

Sec. 5153.20. The cost of care furnished by the public children services agency or the board of county commissioners to any child having a legal residence in another county shall be charged to the county of legal residence. No expense shall be incurred by the agency or the board of county commissioners, on account of such care, except for temporary or emergency care, without the consent of the agency or board of county commissioners, or as provided by this section. If such consent cannot be obtained the board of county commissioners may file a petition in the court of common pleas of the county in which the child is found for a determination of legal residence of such child. Summons in such a proceeding shall be served, as in other civil actions, upon the board of county commissioners and the executive director of the agency of the county alleged to be the county of legal residence, but the answer day shall be the tenth day after the issuance of such summons. The return day shall be the fifth day after issuance of the summons. The cause shall be set for hearing not less than ten nor more than thirty days after the issuance of the summons. The finding and determination by the court upon such application, subject to the right of appeal, shall be final and conclusive as to the county chargeable under this section with the costs of the care of such child. The board of county commissioners out of its general funds shall reimburse the agency furnishing such care, upon receipt of itemized statements.

Any moneys received by the agency furnishing such care from persons liable for the cost of any part of such care, by agreement or otherwise, shall be credited to the county of legal residence.

The agency may remove and deliver any child, having legal residence in another county in Ohio and deemed to be in need of public care, to the

public children services agency of the county of legal residence. All cost incidental to the transportation of such child and of any escort required shall be paid by the public children services agency which delivers back the child. With the approval of the department of ~~human~~ job and family services, any child whose legal residence has been found to be in another state or country may be transferred to the department for return to the place of legal residence, or such child may be returned by the agency. All costs incidental to the transportation of such child and of any escort required shall be paid by the department of ~~human~~ job and family services if it returns the child, otherwise the cost shall be paid by the agency, subject in either case to such reimbursement as may be obtained from the responsible persons or authorities of the place of legal residence. The department of ~~human~~ job and family services may enter into agreements with the authorities of other states relative to the placement and return of children.

Sec. 5153.21. The board of county commissioners may establish a children's home upon the recommendation of the public children services agency and subject to certification by the department of ~~human~~ job and family services under section 5103.03 of the Revised Code.

Sec. 5153.22. If there is no children's home in the county or if the facilities for institutional care are inadequate, the public children services agency may, subject to the approval of the department of ~~human~~ job and family services and the board of county commissioners, enter into an agreement with the public children services agency of, or a certified organization located in, another county, or with the board of trustees of any district or semipublic children's home, or with any agency or institution outside the state for the furnishing of institutional care to children of the county.

Sec. 5153.27. A public children services agency operating a children's home or other institution is subject to sections 5103.03 and 5103.04 of the Revised Code respecting certification by the department of ~~human~~ job and family services.

Sec. 5153.29. The board of county commissioners of any county having a county children's home, may, upon the recommendation of the public children services agency and with the approval of the department of ~~human~~ job and family services, abandon the use of such home and proceed to sell or lease the site, building, furniture, and equipment of such home in the manner most advantageous to the county, or it may use the home for other necessary and proper purposes. The net proceeds of any such sale or lease shall be paid into the county treasury.

Sec. 5153.30. The public children services agency may accept and

eceive bequests, donations, and gifts of funds or property, real or personal, for child care and services. The facilities or services to be established or maintained through any such gift shall be subject to the approval of the department of ~~human~~ job and family services.

Sec. 5153.32. Any corporation, organized under the laws of this state for the purpose of establishing, conducting, and maintaining a child welfare institution or agency, which is unable, for any reason, to conduct and maintain such institution or agency, and which has not, for a period of three consecutive years, conducted or maintained a place or establishment for the care of children, and which has in its hands funds or properties acquired by it for the purpose of establishing, conducting, and maintaining such institution or agency, may, subject to the approval of the department of ~~human~~ job and family services, and subject to the terms of any deed, will, or other instrument pursuant to which such funds or properties were acquired, transfer such funds or properties to the public children services agency, to be used for the purposes for which such funds or property were acquired. The transfer of such funds or properties to the agency shall be a full discharge of the obligation or liability of such corporation and its trustees with respect to the funds and properties so transferred.

Sec. 5153.35. The boards of county commissioners shall levy taxes and make appropriations sufficient to enable the public children services agency to perform its functions and duties under this chapter. If the board of county commissioners levies a tax for children services and the children services functions are transferred from a county children services board to the department of ~~human~~ job and family services, or from the department of ~~human~~ job and family services to a county children services board, the levy shall continue in effect for the period for which it was approved by the electors for the use by the public children services agency that provides children services pursuant to the transfer.

In addition to making the usual appropriations, there may be allowed annually to the executive director an amount not to exceed one-half the executive director's official salary to provide for necessary expenses which are incurred by the executive director or the executive director's staff in the performance of their official duties. Upon the order of the executive director, the county auditor shall draw a warrant on the county treasurer payable to the executive director or such other person as the order designates, for such amount as the order requires, not exceeding the amount provided for in this section, and to be paid out of the general fund of the county. The bond of the executive director provided for by section 5153.13 of the Revised Code shall at all times be in sufficient amount to cover the

ditional appropriations provided for by this section.

The executive director, annually, before the first Monday of January, shall file with the auditor a detailed and itemized statement, verified by the executive director, as to the manner in which the fund has been expended during the current year, and if any part of such fund remains in the executive director's hands unexpended, forthwith shall pay that amount into the county treasury.

Sec. 5153.36. The boards of county commissioners of two or more adjoining counties, not to exceed four, may, upon the recommendation of the public children services agencies of such counties, and subject to the approval of the department of ~~human~~ job and family services form themselves into a joint board, and proceed to organize a district for the establishment and support of a children's home, by using a site and buildings already established in one such county, or by providing for the purchase of a site and the erection of necessary buildings thereon.

Sec. 5153.38. When any person donates or bequeaths ~~his~~ the person's real or personal estate, or any part thereof, to the use and benefit of a district children's home, the board of trustees of the home may accept and use such donation or bequest as they deem for the best interests of the institution, and consistent with the conditions of such bequest. The facilities or services to be established or maintained through any such gift shall be subject to the approval of the ~~division~~ department of ~~social administration~~ job and family services.

Sec. 5153.49. The board of county commissioners of any county within a children's home district may, upon the recommendation of the public children services agency, and subject to the approval of the department of ~~human~~ job and family services, withdraw from such district and dispose of its interest in such home by selling or leasing its right, title, and interest in the site, buildings, furniture, and equipment to any counties in the district, at such price and on such terms as are agreed upon among the boards of county commissioners of the counties concerned. Section 307.10 of the Revised Code does not apply to this section. The net proceeds of any such sale or lease shall be paid into the county treasury of the withdrawing county.

Members of the board of trustees of a district children's home who are residents of a county withdrawing from such district are deemed to have resigned their positions upon completion of the withdrawal procedure provided by this section. Vacancies thus created shall be filled according to sections 5153.39 and 5153.45 of the Revised Code.

Sec. 5153.52. The board of county commissioners of any county which has no county children's home may aid an incorporated children's home or

other unincorporated society, whose object is the care, aid, and education of neglected or destitute children, by contributing toward the purchase of land for such home or society, the erection of buildings by it, or of additions to existing buildings, or other improvements, to an amount not to exceed twenty-five hundred dollars in any one year.

The board of any such county may submit to the people of such county, under section 133.18 of the Revised Code, the question of whether bonds of such county shall be issued for the purposes of this section. If the people of such county approve the issue of bonds, the board may issue the bonds under Chapter 133. of the Revised Code, as if they were being issued for the construction of a county children's home owned by the county, and may use the proceeds of such bond issue for the purposes of and without the restriction as to amount imposed by this section.

The board may contribute an amount not to exceed five hundred dollars in any one year for the purpose of keeping such property in repair. If such children's home ceases to exist, so that the property so purchased ceases to be used for the purpose of a children's home by the corporation, such county shall have a lien upon the property for the amount of money contributed for its purchase, and if such corporation fails to maintain, manage, and control such home so as to subserve the purpose of a children's home for which it was incorporated, the board may enforce such lien or, if it prefers may, upon approval of the department of ~~human~~ job and family services, first being obtained, organize such home into a county children's home. The title to such property, where the county has contributed the whole amount of the purchase money, shall vest in and be the property of such county.

Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.

The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, assist the state board of education in the formulation of minimum standards for driver education courses of instruction, encourage driver instruction in the high schools of the state, and conduct research and studies for the purpose of promoting safety on the highways of this state.

(B) The department shall administer the laws and rules applicable to the division of state emergency medical services.

(C) The department shall administer and enforce the laws contained in

Chapters 4301. and 4303. of the Revised Code and enforce the rules and orders of the liquor control commission pertaining to retail liquor permit holders.

(D) The department shall administer the laws governing the state emergency management agency and shall enforce all additional duties and responsibilities as prescribed in the Revised Code related to emergency management services.

(E) The department shall conduct investigations pursuant to Chapter 5101. of the Revised Code in support of the duty of the department of ~~human~~ job and family services to administer food stamp programs throughout this state. The department of public safety shall conduct investigations necessary to protect the state's property rights and interests in the food stamp program.

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in accordance with Chapters 4919., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants, notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

Sec. 5505.04. (A) The general administration and management of the state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out this chapter.

The board shall consist of the auditor of state, the superintendent of the state highway patrol, a retirant-member who is a resident of this state, and four employee-members.

The board shall annually elect a chairperson and vice-chairperson from among its members. The vice-chairperson shall act as chairperson in the

absence of the chairperson. A majority of the members of the board shall constitute a quorum and any action taken shall be approved by four or more of the members. The board shall meet not less than once each year, upon sufficient notice to the members. All meetings of the board shall be open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by this section.

(B) The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules are given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

(C) The retirant-member of the board shall be elected for a four-year term by a general election of service and disability retirants conducted in a manner approved by the board. The term of the initial retirant-member shall commence in August 1990. A person who at the time of retirement is an employee-member of the board is not eligible to become a retirant-member until three years after such person's retirement date. Employee-members of the board shall be elected for terms of four years by a general election of contributing members conducted in a manner approved by the board. The term of office of each employee-member shall commence in August of the year in which such member is elected. Any vacancy occurring in the term of the retirant-member or any employee-member of the board shall be filled by an election conducted in the same manner as other retirant-member and employee-member elections. The retirant-member or employee-member elected shall fill the unexpired term.

(D)(1) As used in this division, "personal history record" means information maintained by the board on a member, former member, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following which shall be excluded: the member's, former member's,

retirant's, or beneficiary's personal history record and the amount of a monthly allowance or benefit paid to a retirant, beneficiary, or survivor, except with the written authorization of the individual concerned. All medical reports and recommendations are privileged except that copies of such medical reports or recommendations shall be made available to the individual's personal physician, attorney, or authorized agent upon written release received from such individual or such individual's agent, or when necessary for the proper administration of the fund to the board-assigned physician.

(E) Notwithstanding the exceptions to public inspection in division (D)(2) of this section, the board may furnish the following information:

(1) If a member, former member, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued under section 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity.

(4) Within fourteen days after receiving from the director of ~~human~~ job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as those of a person whose name or social security number was submitted by the director. The board and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(F) A statement that contains information obtained from the system's

ecords that is certified and signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 5703.21. (A) Except as provided in divisions (B), (C), (D), (E), (F), and (G) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state solely for purposes of an audit of the department.

(C) Division (A) of this section does not prohibit divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code.

(D) Division (A) of this section does not prohibit the department of taxation providing information to the division of child support within the department of ~~human~~ job and family services, or a child support enforcement agency, pursuant to division (G)(2) of section 5101.31 of the

Revised Code.

(E) Division (A) of this section does not prohibit the disclosure to the board of motor vehicle collision repair registration of any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code.

(F) Division (A) of this section does not prohibit the department from providing information to the administrator of workers' compensation pursuant to section 4123.591 of the Revised Code.

(G) Division (A) of this section does not prohibit the department of taxation from providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code.

Sec. 5709.65. (A) An enterprise issued a certificate under section 5709.64 of the Revised Code shall be entitled to the following tax incentives:

(1) With the exception of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility, any improvement to land or tangible personal property at a facility for which a certificate is issued, first used in business at the facility as the result of a project, shall not be considered an asset of a corporate enterprise in determining the value of its issued and outstanding stock under division (A) of section 5733.05 of the Revised Code at the end of the taxable year that includes the certificate's date of issuance.

(2) With the exception of the original cost of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility, the original cost of any improvement to land or tangible personal property at the facility for which the certificate is issued, first used in business at the facility as a result of a project, shall be excluded from the numerator upon computation of the property factor of a corporate enterprise under division (B)(2)(a) of section 5733.05 of the Revised Code, or of a noncorporate enterprise under division (A) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

As used in divisions (A)(1) and (2) of this section, the "retail portion" of a facility is that part of a facility used primarily for making retail sales as defined in division (O) of section 5739.01 of the Revised Code.

(3) Compensation paid to new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code at the facility for which the certificate is issued, who are hired as a result of a project, shall be excluded from the numerator upon computation of the payroll factor of a

corporate enterprise under division (B)(2)(b) of section 5733.05 of the Revised Code, or of a noncorporate enterprise under division (B) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

(4) An enterprise that reimburses its new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code for all or part of the cost of day-care services necessary to enable them to be employed at a facility for which a certificate is issued shall be entitled to a credit equal to the amounts so reimbursed, up to a maximum of three hundred dollars for each child or dependent receiving the services, for the taxable year in which reimbursement is made, against the tax imposed by section 5733.06 of the Revised Code on a corporate enterprise, or by section 5747.02 of the Revised Code on the owners of a noncorporate enterprise, for the taxable year that includes the certificate's date of issuance. Only reimbursements of amounts paid by new employees to day-care centers licensed by the department of ~~human~~ job and family services for day-care services provided during the first twenty-four months of employment as a new employee may be applied toward the credit provided under this division. Any enterprise claiming this credit shall maintain records verifying that the credit is claimed only for reimbursement of amounts expended by new employees for such services.

(5) For each new employee described in divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code who completes a training program and is subsequently employed by an enterprise for at least ninety days, if the enterprise pays or reimburses all or part of the cost of the employee's participation in the training program, it may claim a credit equal to the amount paid or reimbursed or one thousand dollars, whichever is less, in the taxable year in which the employee completes the ninety days of subsequent employment, against the tax imposed on a corporate enterprise by section 5733.06 of the Revised Code, or on the owners of a noncorporate enterprise by section 5747.02 of the Revised Code. Only one credit shall be allowed with respect to any individual. Attendance at a qualified training program under this section does not bar an otherwise eligible individual from receipt of benefits under Chapter 4141. of the Revised Code.

(B) None of the items set forth in divisions (A)(2) and (3) of this section shall be considered in making any allocation or apportionment under division (B)(2)(d) of section 5733.05 or division (D) of section 5747.21 of the Revised Code.

(C) All credits provided under this section to a noncorporate enterprise shall be divided pro rata among the owners of the enterprise subject to the

tax imposed by section 5747.02 of the Revised Code, based upon their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by ~~him~~ the commissioner, a statement showing the total available credit and the portion thereof attributed to each owner. The statement shall identify each owner by name and social security number and shall be filed with the tax commissioner by the date prescribed by ~~him~~ the commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

(D) All state income tax OR corporation franchise tax credits provided under this section shall be claimed in the order required under section 5733.98 or 5747.98 of the Revised Code. The credits, to the extent they exceed the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credits under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized. ~~All corporation franchise tax credits provided under this section shall be claimed in the order required under section 5733.98 of the Revised Code. The corporation franchise tax credits under this section, to the extent they exceed the taxpayer's tax liability for the taxable year after allowance for any other credits that precede them in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized. All state income tax credits provided under this section shall be claimed in the order required under section 5747.98 of the Revised Code. The credits under this section, to the extent they exceed the taxpayer's tax liability for the taxable year after allowance for any other credits that precede them in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized.~~

Sec. 5709.67. (A) Except as otherwise provided in sections 5709.61 to 5709.69 of the Revised Code, the director of development shall administer those sections and shall adopt such rules as are necessary to ensure that no zone is certified or remains certified unless it meets any applicable requirements of division (A) of section 5709.61 of the Revised Code, and to determine the number of positions attributable to an enterprise for the purposes of division (A)(3) of section 5709.64 of the Revised Code. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code and shall adopt such rules as are necessary to carry out that duty. No tax incentive qualification certificate or employee tax

credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules. The ~~state~~ director of ~~human~~ job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code and shall adopt such rules as are necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules.

(B) Annually the director of development shall report to the general assembly the cost to the state of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code, the number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued, the names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code, and the number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code. The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives.

(C) All forms used in connection with the administration of sections 5709.61 to 5709.69 of the Revised Code, except forms administered directly by the tax commissioner, by the ~~state~~ director of ~~human~~ job and family services, or by a county or municipal corporation, are subject to review and approval by the state forms management control center under sections 125.91 to 125.98 of the Revised Code.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred.

For losses incurred in taxable years ending on or after January 1, 1982, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of dividends and all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain

or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are

attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time

ng the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal

Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of ~~human~~ job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish

the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 of the Revised Code.

(J) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division (C)(2) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's

assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not

more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company" and "combined company" have the same meanings as in section 5727.01 of the Revised Code.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends December 31, 2005.

(5) "County average new manufacturing machinery and equipment

investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer or partnership that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer or partnership that was not in existence for more than one year during baseline years.

(6) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level

or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer, that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the ~~Ohio bureau~~ state director of ~~employment~~ job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;

(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;

(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;

(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed

for the purchase during calendar year 2003 of new manufacturing machinery and equipment;

(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;

(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 of new manufacturing machinery and equipment;

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(B)(1) Subject to division ~~(I)~~(J) of this section, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state no later than December 31, 2006.

(2) The credit is also available to a taxpayer that is a partner in a partnership that purchases new manufacturing machinery and equipment during the qualifying period, provided that the partnership installs the new manufacturing machinery and equipment in this state no later than December 31, 2006. The taxpayer shall determine the credit amount as provided in division (H) of this section.

(3)(a) Except as otherwise provided in division (B)(3)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(3)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the credit is claimed was purchased.

(b) Division (B)(3)(a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C)(1) Except as otherwise provided in division (C)(2) and division

(J) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division ~~(I)~~(J) of this section, as used in division (C)(2) of this section, "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division ~~(I)~~(J) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the credit amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the credit amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a credit for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those credits each year.

(4) The taxpayer shall claim one-seventh of the credit amount for the tax year immediately following the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing tax years. Except for carried-forward amounts, the taxpayer is not allowed any credit amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward credit amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of

section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward credit amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity which transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section shall apply only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any credit amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under section 5733.06 of the Revised Code after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of development, a notice of intent to claim the credit on a form prescribed by the department of development. The department of development shall inform the tax commissioner of the notice of intent to claim the credit.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax credit for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the credit under this section.

(H)(1) With regard to a taxpayer that is a partner in a partnership, the county average new manufacturing machinery and equipment investment shall be determined based on the number of years, if any, the partnership was in existence during baseline years. In determining the county average new manufacturing machinery and equipment investment, the excess of the cost of new manufacturing machinery and equipment purchased during the calendar year, and all other amounts necessary to calculate the credit allowed by this section, the taxpayer shall include the taxpayer's proportionate share of the cost of new manufacturing machinery and equipment purchased by a partnership in which the corporation had a direct or indirect investment during the calendar year prior to the first day of a tax year for which the taxpayer is claiming the credit. These determinations and calculations shall be made for the taxpayer's calendar year during which the partnership made the purchase.

(2) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5733.06 of the Revised Code and the credits allowed by this chapter.

(I)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (I)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a credit claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the credit.

(2) Division (I)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

~~(H)~~(J) In the case of a taxpayer having a related member or a group of taxpayers having a related member, the credit available under this section to the taxpayer or group of taxpayers shall be computed as if the taxpayer or all taxpayers of the group and all such related members were a consolidated, single taxpayer. The credit shall be allocated to such taxpayer or to such group of taxpayers in any amount elected for the taxable year by the taxpayer or group. Such election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code with respect to the tax imposed by section 5733.06 of the Revised Code and the period described in division (B) of section 5747.11 of the Revised Code with respect to the tax imposed by section 5747.02 of the Revised Code. Nothing in this section shall be construed to treat as a purchase the acquisition of new manufacturing machinery and equipment if such purchase would not qualify as a purchase of new manufacturing machinery and equipment without regard to the consolidation requirement set forth in this section.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means adjusted gross income as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross

income under section 86 of the Internal Revenue Code.

(6) Add, in the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal adjusted gross income.

(10) Regarding tuition credits purchased under Chapter 3334. of the Revised Code:

(a) Deduct the following:

(i) For credits that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the amount of income related to the credits, to the extent included in federal adjusted gross income;

(ii) For credits that during the taxable year have been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the excess of the total purchase price of the tuition credits refunded over the amount of refund, to the extent the amount of the excess was not deducted in determining federal adjusted gross income.

(b) Add the following:

(i) For credits that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the amount of loss related to the credits, to the extent the amount of the loss was deducted in determining federal adjusted gross income;

(ii) For credits that during the taxable year have been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the excess of the amount of refund over the purchase price of each tuition credit refunded, to the extent not included in federal adjusted gross income.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction

pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of ~~human~~ job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(B) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from tangible and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park

ict, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" applies to estates only and means taxable income as defined and used in the Internal Revenue Code adjusted as follows:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities;

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States that are exempt from state taxes under the laws of the United States;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect;

(6) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent included in federal taxable income;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining either federal adjusted gross income or federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of

this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of proprietary school registration under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

Sec. 5747.121. (A) In accordance with section 5101.321 of the Revised Code, the tax commissioner shall cooperate with the department of ~~human~~ job and family services in establishing and then implementing procedures for the collection of overdue child support from refunds of paid state income taxes under this chapter that are payable to obligors. The tax commissioner shall deposit money collected from such refunds into the child support intercept fund.

(B) At the request of the department of ~~human~~ job and family services in connection with the collection of overdue child support from a refund of paid state income taxes pursuant to section 5101.321 of the Revised Code and division (A) of this section, the tax commissioner shall release to the

department the home address and social security number of any obligor whose overdue child support may be collected from a refund of paid state income taxes pursuant to section 5101.321 of the Revised Code and division (A) of this section.

(C) In the case of persons filing a joint income tax return, the amount of the refund available for the collection of overdue child support shall be based on the proportion of the refund due to the obligor only. Any obligor's spouse who objects to the amount of the refund to be used for the collection of overdue child support may file a complaint with the tax commissioner within twenty-one days after receiving notice of the collection. The commissioner shall afford a complainant an opportunity to be heard. The burden of proving an error by the commissioner in determining the amount of a refund to be used for the collection of overdue child support shall be on the complainant.

(D) There is hereby created in the state treasury the child support intercept fund, which shall consist of moneys paid into it by the tax commissioner under division (A) of this section. Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of ~~human~~ job and family services for use by the ~~bureau~~ division of child support to meet the requirements of section 666 of Title IV-D of the "Social Security Act," 98 Stat. 1306 (1975), 42 U.S.C. 666, as amended, and any rules promulgated under Title IV-D. Moneys appropriated from the fund are not intended to replace other moneys appropriated for this purpose.

(E) As used in this section, "obligor" has the same meaning as in division (D) of section 5101.321 of the Revised Code.

Sec. 5747.122. (A) The tax commissioner, in accordance with section 5101.184 of the Revised Code, shall cooperate with the director of ~~human~~ job and family services to collect overpayments of assistance under Chapter 5107., 5111., or 5115., former Chapter 5113., or sections 5101.54 to 5101.543 of the Revised Code from refunds of state income taxes for taxable year 1992 and thereafter that are payable to the recipients of such overpayments.

(B) At the request of the department of ~~human~~ job and family services in connection with the collection of an overpayment of assistance from a refund of state income taxes pursuant to this section and section 5101.184 of the Revised Code, the tax commissioner shall release to the department the home address and social security number of any recipient of assistance whose overpayment may be collected from a refund of state income taxes under those sections.

(C) In the case of a joint income tax return for two people who were not

married to each other at the time one of them received an overpayment of assistance, only the portion of a refund that is due to the recipient of the overpayment shall be available for collection of the overpayment under this section and section 5101.184 of the Revised Code. The tax commissioner shall determine such portion. A recipient's spouse who objects to the portion as determined by the commissioner may file a complaint with the commissioner within twenty-one days after receiving notice of the collection, and the commissioner shall afford the spouse an opportunity to be heard on the complaint. The commissioner shall waive or extend the twenty-one-day period if the recipient's spouse establishes that such action is necessary to avoid unjust, unfair, or unreasonable results. After the hearing, the commissioner shall make a final determination of the portion of the refund available for collection of the overpayment.

(D) The welfare overpayment intercept fund is hereby created in the state treasury. The tax commissioner shall deposit amounts collected from income tax refunds under this section to the credit of the welfare overpayment intercept fund. The director of ~~human~~ job and family services shall distribute money in the fund in accordance with appropriate federal or state laws and procedures regarding collection of welfare overpayments.

Sec. 5902.02. The duties of the director of the governor's office of veterans affairs shall include the following:

(A) Furnishing the veterans service commissions of all counties of the state copies of the state laws, rules, and legislation relating to the operation of the commissions and their offices;

(B) Upon application, assisting the general public in obtaining records of vital statistics pertaining to veterans or their dependents;

(C) Promulgating rules pursuant to Chapter 119. of the Revised Code pertaining to minimum qualifications for hiring, certifying, and accrediting county veterans service officers and pertaining to their required duties;

(D) Promulgating rules pursuant to Chapter 119. of the Revised Code for the education, training, certification, and duties of veterans service commissioners;

(E) Developing and monitoring programs and agreements enhancing employment and training for veterans in single or multiple county areas;

(F) Developing and monitoring programs and agreements to enable county veterans service commissions to address homelessness, indigency, and other veteran-related issues individually or jointly;

(G) Developing and monitoring programs and agreements to enable state agencies, individually or jointly, that provide services to veterans, including the Ohio veterans' home and the ~~Ohio bureau~~ director of

~~employment~~ job and family services, to address homelessness, indigency, employment, and other veteran-related issues;

(H) Establishing and providing statistical reporting formats and procedures for county veterans service commissions;

(I) Publishing annually, promulgating change notices for, and distributing a listing of county veterans service officers, county veterans service commissioners, state directors of veterans affairs, and national and state service officers of accredited veterans organizations and their state headquarters. The listing shall include the expiration dates of commission members' terms of office and the organizations they represent; the names, addresses, and telephone numbers of county veterans service officers and state directors of veterans affairs; and the addresses and telephone numbers of the Ohio offices and headquarters of state and national veterans service organizations.

(J) Publishing, by the first day of April of each odd-numbered year, a directory of Ohio laws dealing with veterans, as enacted through the conclusion of the previous session of the general assembly, and distributing the publication to each county veterans service office and the state headquarters of each congressionally chartered veterans organization in the state;

(K) Establishing a veterans advisory committee to advise and assist the governor's office of veterans affairs in its duties. Members shall include a state representative of congressionally chartered veterans organizations referred to in section 5901.02 of the Revised Code, a representative of any other congressionally chartered state veterans organization that has at least one veterans service commissioner in the state, three representatives of the Ohio state association of county veterans service commissioners, who shall have a combined vote of one, three representatives of the state association of county veterans service officers, who shall have a combined vote of one, one representative of the county commissioners association of Ohio, who shall be a county commissioner not from the same county as any of the other county representatives, and a representative of the office of the attorney general. The governor's office of veterans affairs shall submit to the advisory committee proposed rules for the committee's operation. The committee may review and revise these proposed rules prior to submitting them to the joint committee on agency rule review.

(L) Promulgating, with the advice and assistance of the veterans advisory committee, policy and procedural guidelines, which the veterans service commissions shall adhere to in the development and implementation of rules, policies, procedures, and guidelines for the administration of

er 5901. of the Revised Code. The governor's office of veterans affairs shall promulgate no guidelines or rules regulating the purposes, scope, duration, or amounts of financial assistance provided to applicants pursuant to sections 5901.01 to 5901.15 of the Revised Code. The director of the governor's office of veterans affairs may obtain opinions from the office of the attorney general regarding rules, policies, procedures, and guidelines of the veterans service commissions and may enforce compliance with Chapter 5901. of the Revised Code.

(M) Taking any other actions required by this chapter.

SECTION 2. That existing sections 9.55, 101.39, 109.65, 109.85, 109.86, 117.10, 117.45, 121.37, 121.40, 122.16, 122.19, 122.23, 123.01, 124.11, 124.14, 124.324, 125.30, 126.07, 131.11, 131.41, 135.81, 135.96, 145.27, 149.43, 153.39, 169.02, 169.03, 169.08, 173.03, 173.17, 173.35, 173.40, 176.05, 307.01, 307.441, 307.98, 329.01, 329.02, 329.021, 329.022, 329.023, 329.03, 329.041, 329.042, 329.051, 329.07, 329.10, 329.12, 329.14, 331.02, 331.06, 742.41, 1347.08, 1553.10, 1701.86, 1702.47, 1703.17, 1729.55, 1743.05, 1751.01, 1751.11, 1751.12, 1751.13, 1751.20, 1751.31, 1925.04, 1925.13, 1925.18, 2101.11, 2101.16, 2113.06, 2151.152, 2151.232, 2151.281, 2151.353, 2151.36, 2151.39, 2151.412, 2151.413, 2151.416, 2151.421, 2151.43, 2151.49, 2151.86, 2301.35, 2301.356, 2301.358, 2301.36, 2301.37, 2301.371, 2301.372, 2301.373, 2301.374, 2301.375, 2301.43, 2305.26, 2317.56, 2705.031, 2715.041, 2715.045, 2716.13, 2744.05, 2913.40, 2949.26, 2950.11, 2950.13, 2951.02, 2953.51, 3101.01, 3107.013, 3107.031, 3107.032, 3107.051, 3107.062, 3107.063, 3107.064, 3107.065, 3107.071, 3107.081, 3107.082, 3107.083, 3107.09, 3107.091, 3107.10, 3107.12, 3107.13, 3107.141, 3107.17, 3107.39, 3109.05, 3109.15, 3109.16, 3109.18, 3109.401, 3111.03, 3111.06, 3111.07, 3111.09, 3111.20, 3111.21, 3111.211, 3111.22, 3111.23, 3111.231, 3111.24, 3111.25, 3111.27, 3111.99, 3113.04, 3113.07, 3113.09, 3113.16, 3113.21, 3113.211, 3113.212, 3113.213, 3113.214, 3113.215, 3113.216, 3113.99, 3115.21, 3115.31, 3301.15, 3301.32, 3301.53, 3301.57, 3301.581, 3301.59, 3304.231, 3307.21, 3309.22, 3313.714, 3313.715, 3314.08, 3317.029, 3317.06, 3317.064, 3317.10, 3319.089, 3321.18, 3323.021, 3331.04, 3335.24, 3354.21, 3501.01, 3599.45, 3701.023, 3701.241, 3701.78, 3701.80, 3702.55, 3702.74, 3705.07, 3705.09, 3705.091, 3705.10, 3721.011, 3721.022, 3721.071, 3721.08, 3721.12, 3721.14, 3721.15, 3721.19, 3721.51, 3721.511, 3721.52, 3721.53, 3721.54, 3721.55, 3721.56, 3721.57, 3721.58, 3722.04, 3722.15, 3722.16, 3724.12, 3727.13, 3727.17, 3729.02, 3729.11, 3729.14, 3729.18, 3729.21, 3729.24, 3729.26, 3729.61, 3733.49, 3737.22, 3737.65,

3750.02, 3770.071, 3781.06, 3781.10, 3793.051, 3793.07, 3793.15, 3923.50, 3924.42, 3924.47, 3929.721, 4109.01, 4109.05, 4109.08, 4109.11, 4109.12, 4109.13, 4109.21, 4111.01, 4111.03, 4111.04, 4111.05, 4111.06, 4111.07, 4111.08, 4111.09, 4111.10, 4111.13, 4111.17, 4111.25, 4111.26, 4111.27, 4111.28, 4111.29, 4111.30, 4112.02, 4115.03, 4115.031, 4115.032, 4115.034, 4115.04, 4115.05, 4115.07, 4115.071, 4115.08, 4115.09, 4115.10, 4115.101, 4115.12, 4115.13, 4115.131, 4115.132, 4115.133, 4115.14, 4115.15, 4115.16, 4115.32, 4121.69, 4123.038, 4123.27, 4123.56, 4123.62, 4141.01, 4141.031, 4141.044, 4141.07, 4141.09, 4141.11, 4141.131, 4141.14, 4141.17, 4141.18, 4141.20, 4141.23, 4141.231, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, 4141.27, 4141.29, 4141.30, 4141.301, 4141.31, 4141.321, 4141.33, 4141.35, 4141.38, 4141.39, 4141.40, 4141.41, 4141.42, 4141.43, 4141.431, 4141.47, 4167.02, 4167.06, 4167.08, 4167.09, 4167.10, 4167.11, 4167.12, 4167.14, 4167.15, 4167.16, 4167.17, 4167.19, 4303.292, 4582.37, 4731.71, 5101.03, 5101.071, 5101.072, 5101.11, 5101.111, 5101.14, 5101.141, 5101.142, 5101.143, 5101.15, 5101.16, 5101.161, 5101.162, 5101.18, 5101.181, 5101.182, 5101.183, 5101.184, 5101.19, 5101.212, 5101.26, 5101.27, 5101.28, 5101.29, 5101.30, 5101.31, 5101.312, 5101.313, 5101.314, 5101.315, 5101.316, 5101.317, 5101.319, 5101.32, 5101.321, 5101.322, 5101.323, 5101.324, 5101.325, 5101.326, 5101.327, 5101.33, 5101.34, 5101.341, 5101.36, 5101.44, 5101.45, 5101.46, 5101.48, 5101.49, 5101.50, 5101.502, 5101.51, 5101.512, 5101.513, 5101.515, 5101.516, 5101.517, 5101.518, 5101.52, 5101.53, 5101.54, 5101.541, 5101.542, 5101.543, 5101.544, 5101.572, 5101.58, 5101.59, 5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.65, 5101.67, 5101.70, 5101.71, 5101.72, 5101.75, 5101.751, 5101.752, 5101.754, 5101.80, 5101.81, 5101.83, 5101.851, 5101.852, 5101.853, 5101.854, 5101.93, 5103.03, 5103.031, 5103.032, 5103.04, 5103.07, 5103.08, 5103.12, 5103.14, 5103.151, 5103.152, 5103.154, 5103.16, 5103.17, 5103.22, 5103.23, 5104.01, 5104.011, 5104.012, 5104.013, 5104.014, 5104.015, 5104.02, 5104.021, 5104.03, 5104.04, 5104.05, 5104.052, 5104.06, 5104.07, 5104.08, 5104.081, 5104.09, 5104.10, 5104.11, 5104.12, 5104.13, 5104.21, 5104.22, 5104.30, 5104.301, 5104.31, 5104.32, 5104.33, 5104.34, 5104.341, 5104.35, 5104.36, 5104.37, 5104.38, 5104.39, 5104.40, 5104.41, 5104.42, 5104.43, 5104.44, 5107.03, 5107.05, 5107.10, 5107.12, 5107.14, 5107.16, 5107.161, 5107.162, 5107.18, 5107.20, 5107.22, 5107.24, 5107.26, 5107.28, 5107.282, 5107.283, 5107.284, 5107.286, 5107.287, 5107.30, 5107.40, 5107.41, 5107.42, 5107.43, 5107.44, 5107.50, 5107.52, 5107.54, 5107.541, 5107.58, 5107.60, 5107.62, 5107.64, 5107.65, 5107.66, 5107.68, 5107.69, 5107.70, 5107.72, 5107.76, 5107.78, 5108.02, 5108.07, 5108.08, 5108.09, 5108.10,

5111.01, 5111.011, 5111.012, 5111.013, 5111.014, 5111.015, 5111.016, 5111.017, 5111.018, 5111.019, 5111.02, 5111.021, 5111.022, 5111.023, 5111.03, 5111.04, 5111.05, 5111.06, 5111.07, 5111.08, 5111.09, 5111.10, 5111.11, 5111.111, 5111.112, 5111.113, 5111.12, 5111.121, 5111.13, 5111.14, 5111.16, 5111.17, 5111.173, 5111.18, 5111.181, 5111.19, 5111.20, 5111.202, 5111.203, 5111.204, 5111.205, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.252, 5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.27, 5111.29, 5111.291, 5111.30, 5111.31, 5111.33, 5111.34, 5111.341, 5111.35, 5111.36, 5111.37, 5111.38, 5111.41, 5111.42, 5111.45, 5111.46, 5111.47, 5111.48, 5111.49, 5111.50, 5111.51, 5111.52, 5111.53, 5111.54, 5111.55, 5111.56, 5111.57, 5111.58, 5111.59, 5111.60, 5111.61, 5111.62, 5111.74, 5111.81, 5111.87, 5111.88, 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.17, 5112.18, 5112.19, 5112.21, 5112.31, 5112.32, 5112.33, 5112.34, 5112.35, 5112.37, 5112.38, 5112.39, 5112.99, 5115.01, 5115.011, 5115.012, 5115.02, 5115.03, 5115.05, 5115.061, 5115.07, 5115.10, 5115.13, 5115.15, 5115.20, 5119.221, 5120.37, 5123.01, 5123.181, 5123.191, 5123.604, 5126.31, 5139.08, 5139.34, 5139.39, 5153.01, 5153.02, 5153.10, 5153.111, 5153.121, 5153.14, 5153.15, 5153.16, 5153.163, 5153.17, 5153.20, 5153.21, 5153.22, 5153.27, 5153.29, 5153.30, 5153.32, 5153.35, 5153.36, 5153.38, 5153.49, 5153.52, 5502.01, 5505.04, 5703.21, 5709.65, 5709.67, 5733.04, 5733.33, 5747.01, 5747.121, 5747.122, and 5902.02 of the Revised Code are hereby repealed.

SECTION 3. That the versions of sections 3109.15, 3109.16, and 3109.18 of the Revised Code, as scheduled to take effect on January 1, 2001, be amended to read as follows:

Sec. 3109.15. There is hereby created within the department of ~~human~~ job and family services the children's trust fund board consisting of fifteen members. The directors of alcohol and drug addiction services, health, and ~~human~~ job and family services shall be members of the board. Eight public members shall be appointed by the governor. These members shall be persons with demonstrated knowledge in programs for children, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of the following categories: the educational community; the legal community; the social work community; the medical community; the voluntary sector; and professional providers of child abuse and child neglect services. Five of these members shall be residents of counties where the population exceeds four hundred thousand; no more than one such member shall be a resident of the same county. Two

members of the board shall be members of the house of representatives appointed by the speaker of the house of representatives and shall be members of two different political parties. Two members of the board shall be members of the senate appointed by the president of the senate and shall be members of two different political parties. All members of the board appointed by the speaker of the house of representatives or the president of the senate shall serve until the expiration of the sessions of the general assembly during which they were appointed. They may be reappointed to an unlimited number of successive terms of two years at the pleasure of the speaker of the house of representatives or president of the senate. Public members shall serve terms of three years. Each member shall serve until the member's successor is appointed. No public member may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner as the original appointment.

Any member of the board may be removed by the member's appointing authority for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in the member's own behalf. Pursuant to section 3.17 of the Revised Code, a member, except a member of the general assembly or a judge of any court in the state, who fails to attend at least three-fifths of the regular and special meetings held by the board during any two-year period forfeits the member's position on the board.

Each member of the board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of official duties.

The speaker of the house of representatives and the president of the senate shall jointly appoint the board chairperson from among the legislative members of the board.

Sec. 3109.16. The children's trust fund board, upon the recommendation of the director of ~~human~~ job and family services, shall approve the employment of the staff that will administer the programs of the board. The department of ~~human~~ job and family services shall provide budgetary, procurement, accounting, and other related management functions for the board. An amount not to exceed five per cent of the total amount of fees deposited in the children's trust fund in each fiscal year may be used for costs directly related to these administrative functions of the department. Each fiscal year, the board shall approve a budget for administrative expenditures for the next fiscal year.

The board shall meet at the call of the chairperson to conduct its official business. All business transactions of the board shall be conducted in public

meetings. Eight members of the board constitute a quorum. A majority of the quorum is required to approve the state plan for the allocation of funds from the children's trust fund.

The board may apply for and accept federal and other funds for the purpose of funding child abuse and child neglect prevention programs. In addition, the board may accept gifts and donations from any source, including individuals, philanthropic foundations or organizations, corporations, or corporation endowments. The acceptance and use of federal funds shall not entail any commitment or pledge of state funds, nor obligate the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.

Sec. 3109.18. (A)(1) A board of county commissioners may establish a child abuse and child neglect prevention advisory board or may designate the county family and children first council to serve as the child abuse and child neglect prevention advisory board. The boards of county commissioners of two or more contiguous counties may instead form a multicounty district to be served by a child abuse and child neglect prevention advisory board or may designate a regional family and children first council to serve as the district child abuse and child neglect prevention advisory board. Each advisory board shall meet at least twice a year.

(2) The county auditor is hereby designated as the auditor and fiscal officer of the advisory board. In the case of a multicounty district, the boards of county commissioners that formed the district shall designate the auditor of one of the counties as the auditor and fiscal officer of the advisory board.

(B) Each county that establishes an advisory board or, in a multicounty district, the county the auditor of which has been designated as the auditor and fiscal agent of the advisory board, shall establish a fund in the county treasury known as the county or district children's trust fund. The advisory board shall deposit all funds received from the children's trust fund board into that fund, and the auditor shall distribute money from the fund at the request of the advisory board.

(C) Each January, the board of county commissioners of a county that has established an advisory board or, in a multicounty district, the board of county commissioners of the county the auditor of which has been designated as the auditor and fiscal agent for the advisory board, shall appropriate the amount described in division (B)(2) of section 3109.17 of the Revised Code for distribution by the advisory board to child abuse and

child neglect prevention programs.

(D)(1) Except in the case of a county or regional family and children first council that is designated to serve as a child abuse and child neglect prevention advisory board, each advisory board shall consist of an odd number of members from both the public and private sectors, including all of the following:

(a) A representative of an agency responsible for the administration of children's services in the county or district;

(b) A provider of alcohol or drug addiction services or a representative of a board of alcohol, drug addiction, and mental health services that serves the county or district;

(c) A provider of mental health services or a representative of a board of alcohol, drug addiction, and mental health services that serves the county or district;

(d) A representative of a board of mental retardation and developmental disabilities that serves the county or district;

(e) A representative of the educational community appointed by the superintendent of the school district with largest enrollment in the county or multicounty district.

(2) The following groups and entities may be represented on the advisory board:

(a) Parent groups;

(b) Juvenile justice officials;

(c) Pediatricians, health department nurses, and other representatives of the medical community;

(d) School personnel;

(e) Counselors;

(f) Head start agencies;

(g) Child day-care providers;

(h) Other persons with demonstrated knowledge in programs for children.

(3) Of the members first appointed, at least one shall serve for a term of three years, at least one for a term of two years, and at least one for a term of one year. Thereafter, each member shall serve a term of three years. Each member shall serve until the member's successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(E) Each board of county commissioners may incur reasonable costs not to exceed three per cent of the block grant allocated to the county or district under section 3109.17 of the Revised Code, for the purpose of carrying out

the functions of the advisory board.

(F) Each child abuse and child neglect prevention advisory board shall do all of the following:

(1) Develop a comprehensive allocation plan for the purpose of preventing child abuse and child neglect and submit the plan to the children's trust fund board;

(2) Notify potential applicants about the availability of funds from the children's trust fund;

(3) Review all applications received using any criteria developed by the child abuse and child neglect prevention advisory board;

(4) Consistent with the plan developed pursuant to division (F)(1) of this section, make grants to child abuse and child neglect prevention programs. In making grants to child abuse and child neglect prevention programs, the advisory board may consider factors such as need, geographic location, diversity, coordination with or improvement of existing services, maintenance of local funding efforts, and extensive use of volunteers.

(5) Establish reporting requirements for grant recipients.

(G) Each advisory board shall assist the children's trust fund board in monitoring programs that receive money from the children's trust fund and shall perform such other duties for the local administration of the children's trust fund as the children's trust fund board requires.

(H) A recipient of a grant from the children's trust fund shall use the grant funds only to fund child abuse and child neglect prevention programs. Any grant funds that are not spent by the recipient of the funds within the time specified by the terms of the grant shall be returned to the county treasurer. Any grant funds returned that are not redistributed by the advisory board within the time specified by the terms of the original grant shall be returned to the treasurer of state. The treasurer of state shall deposit such unspent moneys into the children's trust fund to be spent for purposes consistent with the state plan adopted under section 3109.17 of the Revised Code.

(I) Applications for grants from the children's trust fund shall be made to the advisory board on forms prescribed by the department of ~~human~~ job and family services.

(J)(1) Each recipient of a children's trust fund grant from an advisory board shall file with the advisory board a copy of an annual report that includes the information required by the advisory board.

(2) Each advisory board shall file with the children's trust fund board a copy of an annual report regarding the county or district comprehensive allocation plan that contains the information required by the children's trust

fund board.

SECTION 4. That all existing versions of sections 3109.15, 3109.16, and 3109.18 of the Revised Code are hereby repealed.

SECTION 5. That the version of section 4141.14 of the Revised Code, as scheduled to take effect on April 1, 2001, be amended to read as follows:

Sec. 4141.14. (A) All rules of the ~~administrator~~ director of the ~~bureau~~ department of ~~employment~~ job and family services adopted pursuant to this chapter shall be approved by the unemployment compensation review commission before the rules become effective. All such rules shall specify on their face their effective date and the date on which they will expire, if known. Approval by the unemployment compensation review commission shall also be required before amendments to, or rescission of, any rules of the ~~administrator~~ director adopted pursuant to this chapter become effective. If the commission disapproves a rule of the ~~administrator~~ director, it shall determine and promulgate a rule that it considers appropriate after affording a hearing to the ~~administrator~~ director.

(B)(1) Any rule promulgated pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(2) of this section is filed as follows:

(a) The rule shall be filed in both print and electronic form with both the secretary of state and the director of the legislative service commission;

(b) The rule shall be filed in both print and electronic form with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (H) of section 119.03 of the Revised Code does not apply.

If all filings are not completed on the same day, the rule shall be effective on the tenth day after the day on which the latest filing is completed. If the ~~bureau~~ department of ~~employment~~ job and family services or the unemployment compensation review commission in adopting a rule pursuant to this chapter designates an effective date that is later than the effective date provided for by this division, the rule if filed as required by this division shall become effective on the later date designated by the ~~bureau~~ department or commission.

If the commission or ~~bureau~~ department adopts or amends a rule that is subject to division (H) of section 119.03 of the Revised Code, the commission or ~~bureau~~ department shall assign a review date to the rule that is not later than five years after its effective date. If no review date is

assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 119.032 of the Revised Code.

(2) The ~~bureau~~ department and commission shall file the rule in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives the ~~bureau~~ department of ~~employment~~ job and family services or the unemployment compensation review commission notice pursuant to section 103.05 of the Revised Code that a rule filed by the ~~bureau~~ department or review commission is not in compliance with the rules of the legislative service commission, the ~~bureau~~ department or review commission shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

The secretary of state and the director of the legislative service commission shall preserve the rules filed under division (B)(1)(a) of this section in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(C) As used in this section:

(1) "Rule" includes an amendment or rescission of a rule.

(2) "Substantive revision" has the same meaning as in division (J) of section 119.01 of the Revised Code.

This is an interim section effective April 1, 2001, until April 1, 2002.

SECTION 6. That all existing versions of section 4141.14 of the Revised Code are hereby repealed.

SECTION 7. That the version of section 4141.14 of the Revised Code, as scheduled to take effect on April 1, 2002, be amended to read as follows:

Sec. 4141.14. (A) All rules of the ~~administrator~~ director of the ~~bureau~~ department of ~~employment~~ job and family services adopted pursuant to this chapter shall be approved by the unemployment compensation review commission before the rules become effective. All such rules shall specify on their face their effective date and the date on which they will expire, if known. Approval by the unemployment compensation review commission shall also be required before amendments to, or rescission of, any rules of the ~~administrator~~ director adopted pursuant to this chapter become effective. If the commission disapproves a rule of the ~~administrator~~ director, it shall determine and promulgate a rule that it considers appropriate after affording a hearing to the ~~administrator~~ director.

(B)(1) Any rule promulgated pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(2) of this section is filed as follows:

(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative service commission;

(b) The rule shall be filed in electronic form with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (H) of section 119.03 of the Revised Code does not apply.

If all filings are not completed on the same day, the rule shall be effective on the tenth day after the day on which the latest filing is completed. If the ~~bureau~~ department of ~~employment~~ job and family services or the unemployment compensation review commission in adopting a rule pursuant to this chapter designates an effective date that is later than the effective date provided for by this division, the rule if filed as required by this division shall become effective on the later date designated by the ~~bureau~~ department or commission.

If the commission or ~~bureau~~ department adopts or amends a rule that is subject to division (H) of section 119.03 of the Revised Code, the commission or ~~bureau~~ department shall assign a review date to the rule that is not later than five years after its effective date. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 119.032 of the Revised Code.

(2) The ~~bureau~~ department and commission shall file the rule in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives the ~~bureau~~ department of ~~employment~~ job and family services or the unemployment compensation review commission notice pursuant to section 103.05 of the Revised Code that a rule filed by the ~~bureau~~ department or review commission is not in compliance with the rules of the legislative service commission, the ~~bureau~~ department or review commission shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

The secretary of state and the director of the legislative service commission shall preserve the rules filed under division (B)(1)(a) of this section in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(C) As used in this section:

(1) "Rule" includes an amendment or rescission of a rule.

(2) "Substantive revision" has the same meaning as in division (J) of section 119.01 of the Revised Code.

SECTION 8. That all existing versions of section 4141.14 of the Revised Code are hereby repealed.

SECTION 9. The amendment by this act of sections 122.23, 3702.74, 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

SECTION 10. Section 145.27 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 627 and Am. Sub. H.B. 668 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 149.43 of the Revised

Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 55 and Am. Sub. S.B. 78 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. Section 2151.421 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 606 and Am. S.B. 212 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. Section 2301.374 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 352 and Am. Sub. S.B. 60 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. Section 3301.32 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 445 and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 3307.21 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 627 and Am. Sub. H.B. 668 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 3309.22 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 627 and Am. Sub. H.B. 668 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 3721.15 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Sub. H.B. 167 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 3729.11 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 62 and Am. Sub. S.B. 150 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 3729.21 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 62 and Am. Sub. S.B. 150 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 4167.11 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 10 and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 5101.14 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 215 and Sub. H.B. 408 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. Section 5101.58 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 215 and Sub. H.B. 408 of the 122nd General Assembly, with the

new language of neither of the acts shown in capital letters. Section 5104.012 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 445 and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 5104.013 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 445 and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 5104.32 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 176 and Am. Sub. H.B. 283 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. Section 5104.38 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 176 and Am. Sub. H.B. 283 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. Section 5703.21 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Am. Sub. H.B. 362 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. Section 5709.65 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 715, Am. Sub. S.B. 19, Sub. S.B. 269, and Sub. S.B. 271 of the 120th General Assembly, with the new language of none of the acts shown in capital letters. Section 5733.33 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Am. Sub. S.B. 3 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. Section 5747.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 4 and Am. Sub. H.B. 282 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 11. Section 5101.60 of the Revised Code was amended by both Am. Sub. H.B. 253 and Am. Sub. S.B. 2 of the 118th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that while certain of the amendments of these acts are reconcilable, certain other of the amendments are substantively irreconcilable. S.B. 2 was passed on June 30, 1989; H.B. 253 was passed on

July 11, 1989. Section 5101.60 of the Revised Code is therefore presented in this act as it results from H.B. 253 and such of the amendments of S.B. 2 as are not in conflict with the amendments of H.B. 253. This is in recognition of the principles stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized where not substantively irreconcilable, and that where amendments are substantively irreconcilable, the latest amendment is to prevail. This section constitutes a legislative finding that such harmonized and reconciled section was the resulting version in effect prior to the effective date of this act.

SECTION 12. (A) Sections 1 and 2 and 9 through 11 of this act shall take effect July 1, 2000.

(B) Sections 3 and 4 of this act shall take effect January 1, 2001.

(C) Sections 5 and 6 of this act shall take effect April 1, 2001.

(D) Sections 7 and 8 of this act shall take effect April 1, 2002.

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Speaker _____ *of the House of Representatives.*

_____

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

_____

Secretary of State.

File No. _____ Effective Date _____