

AN ACT

To amend sections 2106.01, 2106.02, 2106.13, 2107.19, 2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18, 2109.24, 2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 2115.09, 3705.09, and 5905.11, to amend the version of section 2117.06 that was in effect immediately prior to January 27, 1997, to enact sections 2105.25, 2105.26, 2106.25, 2109.301, 2109.302, and 2109.303 and to repeal section 2113.533 of the Revised Code relative to a surviving spouse's election whether to take under the will, will contests, the final and distributive account of an estate's administration, and other provisions of probate law and relative to a probate court procedure for declaring a man to be the father of an adult child if specified conditions are met.

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

SECTION 1. That sections 2106.01, 2106.02, 2106.13, 2107.19, 2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18, 2109.24, 2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 2115.09, 3705.09, and 5905.11 and the version of section 2117.06 that was in effect immediately prior to January 27, 1997, be amended and sections 2105.25, 2105.26, 2106.25, 2109.301, 2109.302, and 2109.303 of the Revised Code be enacted to read as follows:

Sec. 2105.25. (A) As used in this section and section 2105.26 of the Revised Code:

(1) "Adult child" means a person born in this state who is twenty-three years old or older.

(2) "Genetic test" has the same meaning as in section 3111.09 of the Revised Code.

(B) A man alleging himself to be the father of an adult child, the adult

child's mother, and the adult child may appear together before the probate judge of the county in which the man resides and jointly file a declaration stating that the man is the adult child's father and requesting that the court issue an order declaring the man to be the adult child's father. The declaration must state that the adult child's birth certificate does not designate anyone as the adult child's father, the request for the order is made freely and voluntarily by all parties appearing before the court, and genetic test results show the man is the adult child's father. A copy of the birth certificate and the genetic test results must be attached to the declaration.

(C) The man alleging himself to be the adult child's father and the adult child may appear before the court without the adult child's mother and file the declaration if the mother is deceased or has been adjudicated incompetent. If the man alleging himself to be the adult child's father is not a resident of this state, appearance under this section may be made before a probate judge of any county of this state.

Sec. 2105.26. (A) If the probate court determines the following, it shall issue the order requested under section 2105.25 of the Revised Code declaring the man alleging himself to be the father of the adult child to be the adult child's father:

(1) The order was freely and voluntarily requested.

(2) No person is designated as the father on the birth certificate of the adult child.

(3) Genetic test results show that the man is the father of the adult child.

(4) It is in the best interests of the man and adult child that the order be issued.

(B) As part of the order, the court shall order the adult child's birth certificate to be changed to designate the man as the adult child's father.

(C) After issuance of an order under this section, the adult child shall be considered the child of the man declared to be the father as if born to him in lawful wedlock, except that the adult child and the adult child's mother shall not be awarded child support from the man for the time the adult child was a minor.

Sec. 2106.01. (A) After the ~~probate of a will and the filing of the inventory and the appraisement~~ initial appointment of an administrator or executor of the estate, the probate court shall issue a citation to the surviving spouse, if any is living at the time of the issuance of the citation, to elect whether to exercise the surviving spouse's rights under Chapter 2106. of the Revised Code, including, after the probate of a will, the right to elect to take under the will or under section 2105.06 of the Revised Code.

(B) If the surviving spouse elects to take under section 2105.06 of the

Revised Code and if the value of the property that the surviving spouse is entitled to receive is equal to or greater than the value of the decedent's interest in the mansion house as determined under section 2106.10 of the Revised Code, the surviving spouse also is entitled to make an election pursuant to division (A) of section 2106.10 of the Revised Code.

(C) If the surviving spouse elects to take under section 2105.06 of the Revised Code, the surviving spouse shall take not to exceed one-half of the net estate, unless two or more of the decedent's children or their lineal descendants survive, in which case the surviving spouse shall take not to exceed one-third of the net estate.

For purposes of this division, the net estate shall be determined before payment of federal estate tax, estate taxes under Chapter 5731. of the Revised Code, or any other tax that is subject to apportionment under section 2113.86 or 2113.861 of the Revised Code.

(D) Unless the will expressly provides that in case of an election under division (A) of this section there shall be no acceleration of remainder or other interests bequeathed or devised by the will, the balance of the net estate shall be disposed of as though the surviving spouse had predeceased the testator. If there is a disposition by a will to an inter vivos trust that was created by the testator, if under the terms of the trust the surviving spouse is entitled to any interest in the trust or is granted any power or nomination with respect to the trust, and if the surviving spouse makes an election to take under section 2105.06 of the Revised Code, then, unless the trust instrument provides otherwise, the surviving spouse is deemed for purposes of the trust to have predeceased the testator, and there shall be an acceleration of remainder or other interests in all property bequeathed or devised to the trust by the will, in all property held by the trustee at the time of the death of the decedent, and in all property that comes into the hands of the trustee by reason of the death of the decedent.

(E) The election of a surviving spouse to take under a will or under section 2105.06 of the Revised Code may be made at any time after the death of the decedent, but the surviving spouse shall be made not make the election later than one-month five months from the service date of the citation to elect initial appointment of an administrator or executor of the estate. On a motion filed before the expiration of the one-month five-month period, and for good cause shown, the court may allow further time for the making of the election. If no action is taken by the surviving spouse before the expiration of the one-month five-month period, it is conclusively presumed that the surviving spouse elects to take under the will. The election shall be entered on the journal of the court.

When proceedings for advice or to contest the validity of a will are begun within the time allowed by this division for making the election, the election may be made within three months after the final disposition of the proceedings, if the will is not set aside.

(F) When a surviving spouse succeeds to the entire estate of the testator, having been named the sole devisee and legatee, it shall be presumed that the spouse elects to take under the will of the testator. ~~No citation shall be issued to the surviving spouse as provided in division (A) of this section, and no election shall be required,~~ unless the surviving spouse manifests a contrary intention.

Sec. 2106.02. (A) The citation to make the election referred to in section 2106.01 of the Revised Code shall be sent to the surviving spouse by certified mail. Notice that the citation has been issued by the court shall be given to the administrator or executor of the estate of the deceased spouse.

(B) The citation shall be accompanied by a general description of the effect of the election to take under the will or under section 2105.06 of the Revised Code and the general rights of the surviving spouse under Chapter 2106. of the Revised Code. The description shall include a specific reference to the procedures available to the surviving spouse under section 2106.03 of the Revised Code and to the presumption that arises if the surviving spouse does not make the election in accordance with division (E) of section 2106.01 of the Revised Code. The description of the general rights of the surviving spouse under Chapter 2106. of the Revised Code shall include a specific reference to the presumption that arises if the surviving spouse does not make the election within the time period specified by section 2106.25 of the Revised Code. The description of the effect of the election and of the general rights of the surviving spouse need not relate to the nature of any particular estate.

(C) A surviving spouse electing to take under the will may manifest the election in writing within the times described in division (E) of section 2106.01 of the Revised Code.

Sec. 2106.13. (A) If a person dies leaving a surviving spouse and no minor children, leaving a surviving spouse and minor children, or leaving minor children and no surviving spouse, the surviving spouse, minor children, or both shall be entitled to receive, subject to division (B) of this section, in money or property the sum of forty thousand dollars as an allowance for support. If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the allowance for support prescribed by this section shall be reduced by the value of the automobile having the lower value of the two automobiles so selected. The money or

property set off as an allowance for support shall be considered estate assets.

(B) The probate court shall order the distribution of the allowance for support described in division (A) of this section as follows:

(1) If the person died leaving a surviving spouse and no minor children, one hundred per cent to the surviving spouse;

(2) If the person died leaving a surviving spouse and minor children, and if all of the minor children are the children of the surviving spouse, one hundred per cent to the surviving spouse;

(3) If the person died leaving a surviving spouse and minor children, and if not all of the minor children are children of the surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the surviving spouse and the minor children who are not the children of the surviving spouse. In determining equitable shares under this division, the probate court shall do all of the following:

(a) Consider the respective needs of the surviving spouse, the minor children who are children of the surviving spouse, and the minor children who are not children of the surviving spouse;

(b) Allocate to the surviving spouse, the share that is equitable in light of the needs of the surviving spouse and the minor children who are children of the surviving spouse;

(c) Allocate to the minor children who are not children of the surviving spouse, the share that is equitable in light of the needs of those minor children.

(4) If the person died leaving minor children and no surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the minor children. In determining equitable shares under this division, the probate court shall consider the respective needs of the minor children and allocate to each minor child the share that is equitable in light of the child's needs.

(C) If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the probate court, in considering the respective needs of the surviving spouse and the minor children when allocating an allowance for support under division (B)(3) of this section, shall consider the benefit derived by the surviving spouse from the transfer of the automobile having the lower value of the two automobiles so selected.

(D) If, pursuant to this section, the probate court must allocate the allowance for support, the administrator or executor, within five months of the initial appointment of an administrator or executor, shall file with the probate court an application to allocate the allowance for support.

unless a competent adult or a guardian with the consent of the court having jurisdiction over the guardianship waives the allowance for support to which the adult or the ward represented by the guardian is entitled.

(F) For the purposes of this section, the value of an automobile that a surviving spouse selects pursuant to section 2106.18 of the Revised Code is the value that the surviving spouse specifies for the automobile in the affidavit executed pursuant to division (B) of section 4505.10 of the Revised Code.

Sec. 2106.25. Unless otherwise specified by a provision of the Revised Code or this section, a surviving spouse shall exercise all rights under Chapter 2106. of the Revised Code within five months of the initial appointment of an executor or administrator of the estate. It is conclusively presumed that a surviving spouse has waived any right not exercised within that five-month period or within any longer period of time allowed by the court pursuant to this section. Upon the filing of a motion to extend the time for exercising a right under Chapter 2106. of the Revised Code and for good cause shown, the court may allow further time for exercising the right that is the subject of the motion.

Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of this section, when a will has been admitted to probate, the fiduciary for the estate or another person specified in division (A)(4) of this section ~~promptly~~ shall, within two weeks of the admission of the will to probate, give a notice as described in this division and in the manner provided by Civil Rule 73(E) to the surviving spouse of the testator, to all persons who would be entitled to inherit from the testator under Chapter 2105. of the Revised Code if ~~he~~ the testator had died intestate, and to all legatees and devisees named in the will. The notice shall mention the probate of the will and, if a particular person being given the notice is a legatee or devisee named in the will, shall state that the person is named in the will as beneficiary. A copy of the will admitted to probate is not required to be given with the notice.

(2) A person entitled to be given the notice described in division (A)(1) of this section may waive that right by filing a written waiver of the right to receive the notice in the probate court. The person may file the waiver of the right to receive the notice at any time prior to or after the will has been admitted to probate.

(3) The fact that the notice described in division (A)(1) of this section has been given, subject to division (B) of this section, to all persons described in division (A)(1) of this section who have not waived their right to receive the notice, and, if applicable, the fact that certain persons described in that division have waived their right to receive the notice in

accordance with division (A)(2) of this section, shall be evidenced by a certificate that shall be filed in the probate court in accordance with division (A)(4) of this section.

(4) The notice of the admission of the will to probate required by division (A)(1) of this section and the certificate of giving notice or waiver of notice required by division (A)(3) of this section shall be given or filed by the fiduciary for the estate or by the applicant for the admission of the will to probate, the applicant for a release from administration, any other interested person, or the attorney for the fiduciary or for any of the preceding persons. The certificate of giving notice shall be filed not later than two months after the appointment of the fiduciary unless the court grants an extension of that time. Failure to file the certificate in a timely manner shall subject the fiduciary to the citation and penalty provisions of section 2109.31 of the Revised Code.

(B) The fiduciary or another person specified in division (A)(4) of this section is not required to give a notice pursuant to division (A)(1) of this section to persons who have been notified of the application for probate of the will or of a contest as to jurisdiction or to persons whose names or places of residence are unknown and cannot with reasonable diligence be ascertained, and a person authorized by division (A)(4) of this section to give notice shall file in the probate court a certificate to that effect.

Sec. 2107.76. No person who has received or waived the right to receive the notice of the admission of a will to probate required by section 2107.19 of the Revised Code may commence an action permitted by section 2107.71 of the Revised Code to contest the validity of the will more than ~~four~~ three months after the filing of the certificate described in division (A)(3) of section 2107.19 of the Revised Code ~~certifying the giving of that notice to or the waiver of that notice by that person. No other person may commence an action permitted by section 2107.71 of the Revised Code to contest the validity of the will more than four months after the initial filing of a certificate described in division (A)(3) of section 2107.19 of the Revised Code.~~ A person under any legal disability nevertheless may commence an action permitted by section 2107.71 of the Revised Code to contest the validity of the will within four months after the disability is removed, but the rights saved shall not affect the rights of a purchaser, lessee, or encumbrancer for value in good faith and shall not impose any liability upon a fiduciary who has acted in good faith, or upon a person delivering or transferring property to any other person under authority of a will, whether or not the purchaser, lessee, encumbrancer, fiduciary, or other person had actual or constructive notice of the legal disability.

Sec. 2109.07. (A) The bond required of an administrator by section 2109.04 of the Revised Code shall not be required in either of the following cases:

(1) It shall not be required of a surviving spouse to administer the deceased spouse's estate if the surviving spouse is entitled to the entire net proceeds of the estate.

(2) It shall not be required of an administrator to administer an estate if there is no will, if the administrator is the next of kin, and if the administrator is entitled to the entire net proceeds of the estate.

(B) The bond otherwise required by section 2109.04 of the Revised Code of an administrator shall be conditioned as follows:

(1) To file with the probate court within the time required by section 2115.02 of the Revised Code an inventory of all tangible and intangible personal property of the deceased that is to be administered and that comes to the administrator's possession or knowledge and an inventory of the deceased's interest in real estate located in this state;

(2) To administer and distribute according to law all tangible and intangible personal property of the deceased, the proceeds of any action for wrongful death or of any settlement, with or without suit, of a wrongful death claim, and the proceeds of all real estate in which the deceased had an interest, that is located in this state, and that is sold, when the property or proceeds have come to the possession of the administrator or to the possession of a person for the administrator;

(3) To render a just and true account of the administrator's administration at the times required by section ~~2109.30~~ 2109.301 of the Revised Code;

(4) To deliver the letters of administration into court if a will of the deceased is proved and allowed.

Sec. 2109.09. (A) Unless the testator has specified otherwise in the will, the bond required of an executor by section 2109.04 of the Revised Code shall not be required of the executor to administer an estate in accordance with the will of the testator if the executor is the next of kin and if the executor is entitled to the entire net proceeds of the estate.

(B) The bond otherwise required of an executor by section 2109.04 of the Revised Code shall be conditioned as follows:

(1) To file with the probate court within the time required by section 2115.02 of the Revised Code an inventory of all the tangible and intangible personal property of the testator that is to be administered and that comes to the executor's possession or knowledge and an inventory of the testator's interest in real estate located in this state;

(2) To administer and distribute according to law and the will of the testator all the testator's tangible and intangible personal property, the proceeds of any action for wrongful death or of any settlement, with or without suit, of a wrongful death claim, and the proceeds of all real estate in which the testator had an interest, that is located in this state, and that is sold, when the property or proceeds have come to the possession of the executor or to the possession of another person for the executor;

(3) To render a just and true account of the executor's administration at the times required by section ~~2109.30~~ 2109.301 of the Revised Code.

Sec. 2109.11. The bond required by section 2109.04 of the Revised Code of a testamentary trustee shall be conditioned as follows:

(A) To make and return to the probate court within the time required by section 2109.58 of the Revised Code a true inventory of all moneys, chattels, rights, credits and real estate belonging to the trust that come to ~~his~~ the trustee's possession or knowledge;

(B) To administer and distribute according to law and the will of the testator all moneys, chattels, rights, credits, and real estate belonging to the trust that come to the possession of the trustee or to the possession of any other person for ~~him~~ the trustee;

(C) To render a just and true account of ~~his~~ the trustee's administration at the times required by section ~~2109.30~~ 2109.303 of the Revised Code.

Sec. 2109.12. Any bond required by or pursuant to section 2109.04 of the Revised Code of a guardian shall be conditioned as follows:

(A) If applicable, to make and return to the probate court within the time required by section 2111.14 of the Revised Code a true inventory of all moneys, chattels, rights, credits, and real estate belonging to the ward that come to ~~his~~ the guardian's possession or knowledge;

(B) To administer and distribute according to law all moneys, chattels, rights, credits, and real estate belonging to the ward that come to the possession of the guardian or to the possession of any other person for ~~him~~ the guardian;

(C) To render a just and true account of ~~his~~ the guardian's administration at any times required by or pursuant to section ~~2109.30~~ 2109.302 of the Revised Code.

Sec. 2109.18. A surety of a fiduciary or the executor or administrator of a surety may make application at any time to the probate court to be released from the bond of such fiduciary. Such surety shall file ~~his~~ a written request therefor with the probate judge of such court and give at least five days' notice in writing to such fiduciary. If, upon the hearing, the court is of the opinion that there is good reason therefor, it shall release such surety. The

death of a surety shall always be good cause.

A fiduciary may make application at any time to the court for the release of ~~his~~ the fiduciary's sureties. Such fiduciary shall file ~~his~~ a written request therefor with the judge of such court and give at least five days' notice in writing to such sureties. If, upon the hearing, the court is of the opinion that there is good reason to release such sureties, it shall order the fiduciary to file an account, as provided by section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised Code, and such sureties shall be released after the fiduciary files a new bond which is approved by the court.

If such fiduciary fails to give new bond as directed, ~~he~~ the fiduciary shall be removed and ~~his~~ the fiduciary's letters of appointment superseded. Such original sureties shall not be released until the fiduciary gives a bond, but shall be liable for such fiduciary's acts only from the time of executing the original bond to the filing and approval by the court of the new bond.

The costs of such proceeding shall be paid by the surety applying to be released, unless it appears to the court that the fiduciary is insolvent, incompetent, or is wasting the assets of the estate.

Sec. 2109.24. The probate court at any time may accept the resignation of any fiduciary upon ~~his~~ the fiduciary's proper accounting, if the fiduciary was appointed by, is under the control of, or is accountable to the court.

If a fiduciary fails to make and file an inventory as required by sections 2109.58, 2111.14, and 2115.02 of the Revised Code or to render a just and true account of ~~his~~ the fiduciary's administration at the times required by section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised Code, and if the failure continues for thirty days after the fiduciary has been notified by the court of the expiration of the relevant time, the fiduciary forthwith may be removed by the court and shall receive no allowance for ~~his~~ the fiduciary's services unless the court enters upon its journal its findings that the delay was necessary and reasonable.

The court may remove any such fiduciary, after giving the fiduciary not less than ten days' notice, for habitual drunkenness, neglect of duty, incompetency, or fraudulent conduct, because the interest of the trust demands it, or for any other cause authorized by law.

The court may remove a trustee upon the written application of more than one-half of the persons having an interest in the estate controlled by the trustee, but the trustee ~~himself~~ is not to be considered as a person having an interest in the estate under the proceedings; except that no trustee appointed under a will shall be removed upon such written application unless for a good cause.

Sec. 2109.30. (A) ~~Except as provided in division (B) of this section,~~

~~within nine months after appointment, every~~ Every executor and administrator shall render an account of the executor's and administrator's administration. ~~Except as provided in division (B) of this section, after the initial account is rendered, every executor and administrator shall render further accounts at least once each year. Except as provided in divisions (C) and (D) of this section, every fiduciary, other than an executor, administrator, or guardian of the person only, shall render an account of the administration of the fiduciary's estate or trust at least once in each two years. An account shall be rendered by a guardian of the person only at any time, or, subject to division (D) of this section, by any other fiduciary at any time other than those mentioned in this section, upon the order of the court either at its own instance, or upon the motion of any person interested in the estate or trust, for good cause shown. Except as provided in divisions (B) and (C) of this section, every fiduciary, other than a guardian of the person only, shall render a final account within thirty days after completing the administration of the estate or the termination of the fiduciary's trust or within any other period of time that the court may order.~~

Every account shall include an itemized statement of all receipts of the fiduciary during the accounting period and of all disbursements and distributions made by the fiduciary during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate or trust known to or in the possession of the fiduciary at the end of the accounting period and shall show any changes in investments since the last previous account. The accounts of testamentary trustees shall, and the accounts of other fiduciaries may, show receipts and disbursements separately identified as to principal and income.

Every account shall be upon the signature of the fiduciary. When an account is rendered by two or more joint fiduciaries, the court may allow the account upon the signature of one of them.

Upon the filing of every account, the fiduciary, except corporate fiduciaries subject to section 1111.28 of the Revised Code, shall exhibit to the court, for its examination, the securities shown in the account as being in the hands of the fiduciary, or the certificate of the person in possession of the securities, if held as collateral or pursuant to section 2109.13 or 2131.21 of the Revised Code, and a passbook or certified bank statement showing as to each depository the fund deposited to the credit of the trust. The court may designate a deputy clerk, an agent of a corporate surety on the bond of

~~the fiduciary, or another suitable person whom the court appoints as commissioner to make the examination and to report the person's findings to the court. When securities are located outside the county, the court may appoint a commissioner or request another probate court to make the examination and to report its findings to the court. The court may examine the fiduciary under oath concerning the account.~~

~~When a fiduciary is authorized by law or by the instrument governing distribution to distribute the assets of the estate or trust, in whole or in part, the fiduciary may do so and include a report of the distribution in the fiduciary's succeeding account at the time and in the manner prescribed in section 2109.301 of the Revised Code. Every guardian or conservator shall render an account of the ward's estate at the time and in the manner prescribed in section 2109.302 of the Revised Code. Every testamentary trustee and other fiduciary not subject to sections 2109.301 and 2109.302 of the Revised Code shall render an account of the testamentary trustee's or other fiduciary's administration at the time and in the manner prescribed in section 2109.303 of the Revised Code.~~

~~(B) An account showing complete administration before distribution of assets shall be designated "final account." An account filed subsequent to the final account and showing distribution of assets shall be designated "account of distribution." An account showing complete administration and distribution of assets shall be designated "final and distributive account."~~

~~(B)(1) In estates of decedents in which the sole legatee, devisee, or heir also is the executor or administrator, no partial accountings are required, and no final account or final and distributive account shall be filed. The executor or administrator shall be discharged by filing with the court within thirty days after completing the administration of the estate a certificate of termination of an estate that states all of the following:~~

~~(a) That all debts and claims presented to the estate have been paid in full or settled finally;~~

~~(b) That an estate tax return, if required under Chapter 5731. of the Revised Code, has been filed, and any estate tax due under that chapter has been paid;~~

~~(c) That all attorney's fees have been waived by or paid to counsel of record of the estate, and all fiduciary fees have been waived or paid;~~

~~(d) The amount of attorney's fees and the amount of fiduciary fees that have been paid;~~

~~(e) That all assets remaining after completion of the activities described in divisions (B)(1)(a) to (d) of this section have been distributed to the sole legatee, devisee, or heir.~~

~~In estates of decedents in which none of the legatees, devisees, or heirs is under a legal disability, each partial accounting of an executor or administrator may be waived by the written consent of all the legatees, devisees, or heirs filed in lieu of a partial accounting otherwise required.~~

~~(C)(1) The court may waive, by order, an account that division (A) of this section requires of a guardian of the estate or a guardian of the person and estate, other than an account made pursuant to court order, if any of the following circumstances applies:~~

~~(a) The assets of the estate consist entirely of real property.~~

~~(b) The assets of the estate consist entirely of personal property, that property is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than five thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.~~

~~(c) The assets of the estate consist entirely of real property and of personal property that is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than five thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.~~

~~(2) The order of a court entered pursuant to division (C)(1) of this section is prima facie evidence that a guardian of the estate or a guardian of the person and estate has authority to make expenditures as described in division (C)(1)(b) or (c) of this section.~~

~~(D)(1) As used in this division:~~

~~(a) "Charitable trust" has the same meaning as in section 109.23 of the Revised Code.~~

~~(b) "Qualified community foundation" means any foundation that is exempt from federal income taxation under sections 170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, as amended; that is further described in section 1.170A-9(10) and (11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 1.170A-9(10) and (11), as amended; and that publishes at least annually and circulates widely within its community an audited report of its fund balances, activities, and donors.~~

~~(c) "Testamentary charitable trust" means any charitable trust that is created by a will.~~

~~(2) If the assets of a testamentary charitable trust are held and managed by a fiduciary who is an individual or by a corporate fiduciary and if the trust merges into a qualified community foundation, then, after the fiduciary files with the court a final and distributive account pertaining to the trust and~~

~~activities up to the effective date of the merger, the fiduciary and any successors of the fiduciary shall not be required to render any accounting to the court pertaining to the merged trust and activities that follow the effective date of the merger.~~

Sec. 2109.301. (A) An administrator or executor shall render an account at any time other than a time otherwise mentioned in this section upon an order of the probate court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate. Except as otherwise provided in division (B)(2) of this section, an administrator or executor shall render a final account within thirty days after completing the administration of the estate or within any other period of time that the court may order.

Every account shall include an itemized statement of all receipts of the administrator or executor during the accounting period and of all disbursements and distributions made by the executor or administrator during the accounting period. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate known to or in the possession of the administrator or executor at the end of the accounting period and shall show any changes in investments since the last previous account.

Every account shall be upon the signature of the administrator or executor. When two or more administrators or executors render an account, the court may allow the account upon the signature of one of them. The court may examine the administrator or executor under oath concerning the account.

When an administrator or executor is authorized by law or by the instrument governing distribution to distribute the assets of the estate, in whole or in part, the administrator or executor may do so and include a report of the distribution in the administrator's or executor's succeeding account.

In estates of decedents in which none of the legatees, devisees, or heirs is under a legal disability, each partial accounting of an executor or administrator may be waived by the written consent of all the legatees, devisees, or heirs filed in lieu of a partial accounting otherwise required.

(B)(1) Every administrator and executor, within six months after appointment, shall render a final and distributive account of the administrator's or executor's administration of the estate unless one or more of the following circumstances apply:

(a) An Ohio estate tax return must be filed for the estate.

(b) A proceeding contesting the validity of the decedent's will pursuant

to section 2107.71 of the Revised Code has been commenced.

(c) The surviving spouse has filed an election to take against the will.

(d) The administrator or executor is a party in a civil action.

(e) The estate is insolvent.

(f) For other reasons set forth by the administrator or executor, subject to court approval, it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account.

(2) In estates of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, no partial accountings are required, and the administrator or executor shall not file a final account or final and distributive account. In lieu of filing a final account, the administrator or executor of an estate of that type shall be discharged by filing with the court within thirty days after completing the administration of the estate a certificate of termination of an estate that states all of the following:

(a) All debts and claims presented to the estate have been paid in full or settled finally.

(b) An estate tax return, if required under the provisions of the Internal Revenue Code or Chapter 5731. of the Revised Code, has been filed, and any estate tax has been paid.

(c) All attorney's fees have been waived by or paid to counsel of record of the estate, and all executor or administrator fees have been waived or paid.

(d) The amount of attorney's fees and the amount of administrator or executor fees that have been paid.

(e) All assets remaining after completion of the activities described in divisions (B)(2)(a) to (d) of this section have been distributed to the sole legatee, devisee, or heir.

(3) Not later than thirteen months after appointment, every administrator and executor shall render an account of the administrator's or executor's administration, unless a certificate of termination is filed under division (B)(2) of this section. Except as provided in divisions (B)(1) and (2) of this section, after the initial account is rendered, every administrator and executor shall render further accounts at least once each year.

Sec. 2109.302. (A) Every guardian or conservator shall render an account of the administration of the ward's estate at least once in each two years. The guardian or conservator shall render an account at any time other than a time otherwise mentioned in this section upon the order of the probate court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate. Except as provided in division

(B) of this section, every guardian or conservator shall render a final account within thirty days after completing the administration of the ward's estate or within any other period of time that the court may order.

Every account shall include an itemized statement of all receipts of the guardian or conservator during the accounting period and of all disbursements and distributions made by the guardian or conservator during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate known to or in the possession of the guardian or conservator at the end of the accounting period and shall show any changes in investments since the last previous account.

Every account shall be upon the signature of the guardian or conservator. When two or more guardians or conservators render an account, the court may allow the account upon the signature of one of the guardians or conservators.

Upon the filing of every account, the guardian or conservator, except a corporate fiduciary subject to section 1111.28 of the Revised Code, shall exhibit to the court for its examination both of the following: the securities shown in the account as being in the hands of the guardian or conservator, or the certificate of the person in possession of the securities, if held as collateral or pursuant to section 2109.13 or 2131.21 of the Revised Code; and a passbook or certified bank statement showing as to each depository the fund deposited to the credit of the ward's estate. The court may designate a deputy clerk, an agent of a corporate surety on the bond of the guardian or conservator, or another suitable person whom the court appoints as commissioner to make the examination and to report the person's findings to the court. When securities are located outside the county, the court may appoint a commissioner or request another probate court to make the examination and to report its findings to the court. The court may examine the guardian or conservator under oath concerning the account.

When a guardian or conservator is authorized by law to distribute the assets of the estate, in whole or in part, the guardian or conservator may do so and include a report of the distribution in the guardian's or conservator's succeeding account.

(B)(1) The court may waive, by order, an account that division (A) of this section requires of a guardian of the estate or of a guardian of the person and estate, other than an account made pursuant to court order, if any of the following circumstances apply:

(a) The assets of the estate consist entirely of real property.

(b) The assets of the estate consist entirely of personal property, that property is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than ten thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.

(c) The assets of the estate consist entirely of real property and of personal property that is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than ten thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.

(2) The order of a court entered pursuant to division (B)(1) of this section is prima-facie evidence that a guardian of the estate or a guardian of the person and estate has authority to make expenditures as described in divisions (B)(1)(b) and (c) of this section.

(3) Notwithstanding the requirements for accounts by other guardians under this section, a guardian of the person is not required to render an account except upon an order of the court that the court issues for good cause shown either at its own instance or upon the motion of any person interested in the estate.

Sec. 2109.303. (A) Except as provided in division (B) of this section, every testamentary trustee shall, and every other fiduciary not subject to section 2109.301 or 2109.302 of the Revised Code may, render an account of the trustee's or other fiduciary's administration of the estate or trust at least once in each two years. Any testamentary trustee or other fiduciary shall render an account, subject to division (B) of this section, at any time other than a time otherwise mentioned in this section upon an order of the court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate or trust. Every testamentary trustee shall, and every other fiduciary may, render a final account within thirty days after completing the administration of the estate or trust or shall file a final account within any other period of time that the court may order.

Every account shall include an itemized statement of all receipts of the testamentary trustee or other fiduciary during the accounting period and of all disbursements and distributions made by the testamentary trustee or other fiduciary during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement

of all funds, assets, and investments of the estate or trust known to or in the possession of the testamentary trustee or other fiduciary at the end of the accounting period and shall show any changes in investments since the last previous account. The accounts of testamentary trustees shall, and the accounts of other fiduciaries may, show receipts and disbursements separately identified as to principal and income.

Every account shall be upon the signature of the testamentary trustee or other fiduciary. When two or more testamentary trustees or other fiduciaries render an account, the court may allow the account upon the signature of one of them.

Upon the filing of every account, the testamentary trustee or other fiduciary, except a corporate fiduciary subject to section 1111.28 of the Revised Code, shall exhibit to the court for its examination both of the following: the securities shown in the account as being in the hands of the testamentary trustee or other fiduciary, or the certificate of the person in possession of the securities, if held as collateral or pursuant to section 2109.13 or 2131.21 of the Revised Code; and a passbook or certified bank statement showing as to each depository the fund deposited to the credit of the estate or trust. The court may designate a deputy clerk, an agent of a corporate surety on the bond of the testamentary trustee or other fiduciary, or another suitable person whom the court appoints as commissioner to make the examination and to report the person's findings to the court. When securities are located outside the county, the court may appoint a commissioner or request another probate court to make the examination and to report its findings to the court. The court may examine the testamentary trustee or other fiduciary under oath concerning the account.

When a testamentary trustee or other fiduciary is authorized by law or by the instrument governing distribution to distribute the assets of the estate or trust, in whole or in part, the testamentary trustee or other fiduciary may do so and include a report of the distribution in the testamentary trustee's or fiduciary's succeeding account.

(B) If the assets of a testamentary charitable trust are held and managed by a testamentary trustee or other fiduciary who is an individual or by a corporate fiduciary and if the trust merges into a qualified community foundation, then, after the testamentary trustee or other fiduciary files with the court a final and distributive account pertaining to the trust and activities up to the effective date of the merger, the testamentary trustee or other fiduciary and any successors of the testamentary trustee or other fiduciary shall not be required to render any accounting to the court pertaining to the merged trust and activities that follow the effective date of the merger.

(C) As used in this section:

(1) "Charitable trust" has the same meaning as in section 109.23 of the Revised Code.

(2) "Qualified community foundation" means any foundation that is exempt from federal income taxation under sections 170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 170(b)(1)(A)(vi) and 501 (c)(3), as amended; that is further described in section 1.170A-9(10) and (11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 1.170A-9(10) and (11), as amended; and that publishes at least annually and circulates widely within its community an audited report of its fund balances, activities, and donors.

(3) "Testamentary charitable trust" means any charitable trust that is created by a will.

(4) "Other fiduciary" means a fiduciary other than an executor, administrator, guardian, conservator, or testamentary trustee.

Sec. 2109.31. (A) If a fiduciary neglects or refuses to file an account, inventory, certificate of notice of probate of will, or report when due according to section 2107.19, 2109.30, 2111.49, or 2115.02 of the Revised Code or when ordered by the probate court, the court at its own instance may issue, and on the application of any interested party or of any of the next of kin of any ward shall issue, a citation as described in division (B) of this section to such fiduciary pursuant to Civil Rules 4.1 to 4.6 to compel the filing of the overdue account, inventory, certificate of notice of probate of will, or report.

(B) The citation that is required by division (A) of this section may contain any of the following:

(1) A statement that the particular account, inventory, certificate of notice of probate of will, or report is overdue;

(2) An order to the fiduciary to file the account, inventory, certificate of notice of probate of will, or report, or otherwise to appear before the court on a specified date;

(3) A statement that, upon the issuance of the citation, a continuance to file the account, inventory, certificate of notice of probate of will, or report may be obtained from the court only on or after the date specified pursuant to division (B)(2) of this section.

(C) If a citation is issued to a fiduciary in accordance with divisions (A) and (B) of this section and if the fiduciary fails to file the account, inventory, certificate of notice of probate of will, or report prior to the appearance date specified in the citation, the court may order, on that date, one or more of the following:

- (1) The removal of the fiduciary;
- (2) A denial of all or part of the fees to which the fiduciary otherwise would be entitled;
- (3) A continuance of the time for filing the account, inventory, certificate of notice of probate of will, or report;
- (4) An assessment against the fiduciary of a penalty of one hundred dollars and costs of twenty-five dollars for the hearing, or a suspension of all or part of the penalty and costs;
- (5) That the fiduciary is in contempt of the court for the failure to comply with the citation and that a specified daily fine, imprisonment, or daily fine and imprisonment may be imposed against the fiduciary, beginning with the appearance date, until the account, inventory, certificate of notice of probate of will, or report is filed with the court;
- (6) If the fiduciary does not appear in the court on the specified appearance date, that the fiduciary is in contempt of the court for the failure to comply with the citation, and that one of the following may occur:
 - (a) The fiduciary shall be taken into custody by the sheriff or a deputy sheriff and brought before the court;
 - (b) The fiduciary shall appear before the court on a specified date or otherwise be taken into custody by the sheriff or a deputy sheriff and brought before the court.
- (D) The assessments, fines, and other sanctions that the court may impose upon a fiduciary pursuant to this section may be imposed only upon a fiduciary and shall not be imposed upon the surety of any fiduciary.

Sec. 2109.32. (A) Every fiduciary's account required by section 2109.30 2109.301, 2109.302, or 2109.303 of the Revised Code shall be set for hearing before the probate court. The hearing on the account shall be set not earlier than thirty days after the filing of the account.

At the hearing upon an account required by section 2109.302 or 2109.303 of the Revised Code and, if ordered by the court, upon an account required by section 2109.301 of the Revised Code, the court shall inquire into, consider, and determine all matters relative to the account and the manner in which the fiduciary has executed ~~his~~ the fiduciary's trust, including the investment of trust funds, and may order the account approved and settled or make any other order as the court considers proper. If, at the hearing upon an account, the court finds that the fiduciary has fully and lawfully administered the estate or trust and has distributed the assets of the estate or trust in accordance with the law or the instrument governing distribution, as shown in the account, the court shall order the account approved and settled and may order the fiduciary discharged. Upon approval

of a final and distributive account required by division (B)(1) of section 2109.301 of the Revised Code, the court may order the surety bond for the fiduciary terminated. Unless otherwise ordered by the court, the fiduciary shall be discharged without further order twelve months following the approval of the final and distributive account.

(B)(1) An administrator or executor filing an account pursuant to section 2109.301 of the Revised Code shall provide at the time of filing the account a copy of the account to each heir of an intestate estate or to each beneficiary of a testate estate. An administrator or executor is not required to provide a copy of the account to any of the following:

(a) An heir or a beneficiary whose residence is unknown;

(b) A beneficiary of a specific bequest or devise who has received his or her distribution and for which a receipt has been filed or exhibited with the court.

(2) The probate court shall not approve the final account of any executor or administrator until the following events have occurred:

(A)(a) Three months have passed since the death of the decedent;

(B)(b) The surviving spouse has filed an election to take under or against the will, or the time for making the election has expired.

(3) If an administrator or executor learns of the existence of newly discovered assets after the filing of the final account or otherwise comes into possession of assets belonging to the estate after the filing of the final account, the executor or administrator shall file a supplemental final account with respect to the disposition of the assets and shall provide a copy of the supplemental final account to each heir of an intestate estate or to each beneficiary of a testate estate, as provided in division (B)(1) of this section and subject to the exceptions specified in divisions (B)(1)(a) and (b) of this section.

(C) The rights of any person with a pecuniary interest in the estate are not barred by approval of an account pursuant to divisions (A) and (B) of this section. These rights may be barred following a hearing on the account pursuant to section 2109.33 of the Revised Code.

Sec. 2113.25. So far as ~~he~~ the executor or administrator is able, the executor or administrator of an estate shall collect the assets and complete the administration of ~~such that~~ that estate within ~~nine~~ thirteen months after the date of ~~his~~ his appointment.

Upon application of the executor or administrator and notice to the interested parties, if the probate court ~~deems such~~ considers that notice necessary, the court may allow further time in which to collect assets, to convert assets into money, to pay creditors, to make distributions to legatees

or distributees, to file partial, final, and distributive accounts, and to settle estates. The court, upon application of any interested party, may authorize the examination under oath in open court of the executor or administrator upon any matter relating to the administration of the estate.

Sec. 2113.28. The time allowed by the probate court to collect the assets of an estate shall not operate as an allowance of further time to file the accounts required by section ~~2109.30~~ 2109.301 of the Revised Code.

Sec. 2113.53. (A) At any time after the appointment of an executor or administrator, the executor or administrator may distribute to the beneficiaries entitled to assets of the estate under the will, if there is no action pending to set aside the will, or to the heirs entitled to assets of the estate by law, in cash or in kind, any part or all of the assets of the estate. Each beneficiary or heir is liable to return the assets, or the proceeds from the assets, if they are necessary to satisfy the share of a surviving spouse who elects to take against the will pursuant to section 2106.01 of the Revised Code, ~~or if they are necessary~~ to satisfy any claims against the estate as provided in this section, or if the will is set aside. ~~If any~~

(B) After distribution pursuant to division (A) of this section, a distributee shall be personally liable to a claimant who presents a claim within the time set forth in division (B) of section 2117.06 of the Revised Code, subject to the limitations described in this division.

The personal liability of any distributee shall not exceed the lesser of the following:

(1) The amount the distributee has received reduced by the amount, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed;

(2) The distributee's proportionate share of the spouse's share or of claims finally allowed. Any distributee's proportionate share of the spouse's share or of claims finally allowed shall be determined by the following fraction:

(a) The numerator shall be the total amount received by the distributee, reduced by all amounts, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed.

(b) The denominator shall be the total amount received by all distributees reduced by all amounts, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed.

(C) If there is a surviving spouse and if the executor or administrator distributes any part of the assets of the estate before the expiration of the times described in division (E) of section 2106.01 of the Revised Code for the making of an election by a surviving spouse, ~~he is~~ the executor or

administrator shall be personally liable to any surviving spouse who subsequently elects to take against the will. If the executor or administrator distributes any part of the assets of the estate within three months after the death of the decedent, the executor or administrator ~~is~~ shall be personally liable only to those claimants who present their claims within that three-month period. If the executor or administrator distributes any part of the assets of the estate more than three months but less than one year after the death of the decedent, the executor or administrator ~~is~~ shall be personally liable only to those claimants who present their claims before the time of distribution. ~~If the executor or administrator distributes any part of the assets of the estate more than one year after the death of the decedent, he is personally liable only to those claimants who present their claims within one year after the death of the decedent. The executor or administrator shall be liable only to the extent a claim is finally allowed and within the time set forth in division (B) of section 2117.06 of the Revised Code.~~

The executor or administrator shall be liable only to the extent that the sum of the remaining assets of the estate and the assets returned by the beneficiaries or heirs is insufficient to satisfy the share of the surviving spouse and to satisfy the claims against the estate. The executor or administrator shall not be liable in any case for an amount greater than the value of the estate that existed at the time that the distribution of assets was made and that was subject to the spouse's share or to the claims.

~~Any~~ (D) The executor or administrator may provide for the payment of rejected claims or claims in suit by setting aside a sufficient amount of the assets of the estate for paying the claims. The assets shall be set aside for the payment of the claims in a manner approved by the probate court. Each claimant for whom assets are to be set aside shall be given notice, in the manner as the court shall order, of the hearing upon the application to set aside assets and shall have the right to be fully heard as to the nature and amount of the assets to be set aside for payment of ~~his~~ the claim and as to all other conditions in connection with the claim. In any case in which the executor or administrator may set aside assets as provided in this section, the court, upon its own motion or upon application of the executor or administrator, as a condition precedent to any distribution, may require any beneficiary or heir to give a bond to the state with surety approved and in an amount fixed by the court, conditioned to secure the return of the assets to be distributed, or the proceeds from the assets or as much of the assets as may be necessary to satisfy the claims that may be recovered against the estate, and to indemnify the executor or administrator against loss and damage on account of such distribution. The bond may be in addition to the

assets to be set aside or partially or wholly in lieu of the assets, as the court shall determine.

Sec. 2113.64. If a sum of money ~~directed by a decree or order of the probate court~~ to be distributed to heirs, next of kin, or legatees, or owing from an estate to a creditor ~~thereof of the estate~~, remains ~~for six months~~ unclaimed ~~prior to the filing of a final account~~, the court may order it turned into the county treasury as provided in section 2113.65 of the Revised Code, or may order the executor or administrator to invest it as the court directs for a period not to exceed ~~one year~~ two years, to accumulate for the benefit of the persons entitled ~~thereto to the sum of money~~. Such investment shall be made in the name of the probate judge of the court for the time being and shall be subject to the order of the judge and ~~his~~ the judge's successors in office.

Sec. 2115.09. The inventory required by section 2115.02 of the Revised Code shall contain a particular statement of all securities for the payment of money ~~which that~~ belong to the deceased and are known to ~~such the~~ executor or administrator. Such inventory shall specify the name of the debtor in each security, the date, the sum originally payable, the indorsements thereon with their dates, the serial numbers or other identifying data as to each security, and the sum ~~which that~~, in the judgment of the appraisers, can be collected on each claim.

Such inventory ~~must shall~~ contain a statement of all debts and accounts belonging to the deceased ~~which that~~ are known to such executor or administrator and specify the name of the debtor, the date, the balance or thing due, and the value or sum ~~which that~~ can be collected thereon, in the judgment of the appraisers.

Such inventory ~~must shall~~ contain an account of all moneys ~~which that~~ belong to the deceased and have come to the hands of the executor or administrator. If none has come to ~~his~~ the executor's or administrator's hands, the fact ~~must shall~~ be stated in the inventory.

The inventory shall contain a statement whether or not, insofar as it can be ascertained, the filing of an Ohio estate tax return will be required.

Sec. 2117.06. (A) All creditors having claims against an estate, including claims arising out of contract, out of tort, on cognovit notes, or on judgments, whether due or not due, secured or unsecured, liquidated or unliquidated, shall present their claims in one of the following manners:

- (1) To the executor or administrator in a writing;
- (2) To the executor or administrator in a writing, and to the probate court by filing a copy of the writing with it;
- (3) In a writing that is sent by ordinary mail addressed to the decedent

and that is actually received by the executor or administrator within the appropriate time specified in division (B) of this section. For purposes of this division, if an executor or administrator is not a natural person, the writing shall be considered as being actually received by the executor or administrator only if the person charged with the primary responsibility of administering the estate of the decedent actually receives the writing within the appropriate time specified in division (B) of this section.

(B) All claims shall be presented within one year after the death of the decedent, whether or not the estate is released from administration or an executor or administrator is appointed during that one-year period. Every claim presented shall set forth the claimant's address.

(C) A claim that is not presented within one year ~~after~~ after the death of the decedent shall be forever barred as to all parties, including, but not limited to, devisees, legatees, and distributees. No payment shall be made on the claim and no action shall be maintained on the claim, except as otherwise provided in sections 2117.37 to 2117.42 of the Revised Code, with reference to contingent claims.

(D) In the absence of any prior demand for allowance, the executor or administrator shall allow or reject all claims, except tax assessment claims, within thirty days after their presentation, provided that failure of the executor or administrator to allow or reject within that time shall not prevent ~~him~~ the executor or administrator from doing so after that time and shall not prejudice the rights of any claimant. Upon the allowance of a claim, the executor or the administrator, on demand of the creditor, shall furnish the creditor with a written statement or memorandum of the fact and date of ~~such~~ the allowance.

(E) If the executor or administrator has actual knowledge of a pending action commenced against the decedent prior to ~~his~~ the decedent's death in a court of record in this state, ~~such~~ the executor or administrator shall file a notice of ~~his~~ the appointment of the executor or administrator in ~~such~~ the pending action within ten days after acquiring ~~such~~ that knowledge. If the administrator or executor is not a natural person, actual knowledge of a pending suit against the decedent shall be limited to the actual knowledge of the person charged with the primary responsibility of administering the estate of the decedent. Failure to file the notice within the ten-day period does not extend the claim period established by this section.

(F) This section applies to any person who is required to give written notice to the executor or administrator of a motion or application to revive an action pending against the decedent at the date of the death of the decedent.

(G) Nothing in this section or in section 2117.07 of the Revised Code shall be construed to reduce the time mentioned in section 2125.02, 2305.09, 2305.10, 2305.11, or 2305.12 of the Revised Code, provided that no portion of any recovery on a claim brought pursuant to any of those sections shall come from the assets of an estate, unless the claim has been presented against the estate in accordance with Chapter 2117. of the Revised Code.

(H) Any person whose claim has been presented, and has not thereafter been rejected, after presentment is a creditor as that term is used in Chapters 2113. to 2125. of the Revised Code. Claims that are contingent need not be presented except as provided in sections 2117.37 to 2117.42 of the Revised Code, but, whether presented pursuant to those sections or this section, contingent claims may be presented in any of the manners described in division (A) of this section.

(I) If a creditor presents a claim against an estate in accordance with division (A)(2) of this section, the probate court shall not close the administration of the estate until that claim is allowed or rejected.

(J) The probate court shall not require an executor or administrator to make and return into the court a schedule of claims against the estate.

(K) If the executor or administrator makes a distribution of the assets of the estate prior to the expiration of the time for the filing of claims as set forth in this section, he the executor or administrator shall provide notice on the account delivered to each distributee as provided in that the distributee may be liable to the estate up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section 2113.533 of the Revised Code.

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, or declared to be the father of a child, according to section 2105.26, sections 3111.01 to 3111.18, former section 3111.21, or sections 3111.38 to 3111.54 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, 3111.25, or 3111.821 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 division of child support in the department of 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. 5905.11. Every guardian who has received or shall receive on account of ~~his~~ the guardian's ward any things of value from the veterans administration shall file with the probate court annually, on the anniversary date of the appointment, in addition to any other accounts required by the court, a full and accurate account of all things of value received by ~~him~~ the

guardian, all earnings, interest, or profits derived from those things of value, all property acquired with those things of value, and all disbursements from those things of ~~value~~ value. The account shall show the balance of those things of value in ~~his~~ the guardian's hands at the date of the account and how it is invested.

The guardian, at the time of filing any account, shall exhibit all securities or investments held by ~~him~~ the guardian to an officer of the depository in which the securities or investments are held for safekeeping, to an authorized representative of the corporation that is surety on ~~his~~ the guardian's bond, to the judge or clerk of a court of record in this state, or, upon request of the guardian or other interested party, to any other reputable person designated by the probate court, who shall certify in writing that ~~he~~ the judge, clerk, or other person has examined the securities or investments and identified them with those described in the account and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. The guardian may exhibit the securities or investments to the court, which shall indorse on the account and copy of the account a certificate that the securities or investments shown in the account as held by the guardian were each in fact exhibited to ~~him~~ the court and that those exhibited to ~~him~~ the court were the same as those shown in the account, and shall note any omission or discrepancy. The certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable showing the amount on deposit shall be prepared and signed in duplicate, and one of each shall be filed by the guardian with ~~his~~ the guardian's account.

At the time of filing any account in the court, a certified copy of the account and a signed duplicate of each certificate filed with the court shall be sent by the guardian to the office of the veterans administration having jurisdiction over the area in which the court is located. A signed duplicate or certified copy of any pleading pertaining to an account, or to any matter other than an account, that is filed in the guardianship proceedings or in any proceeding for the purpose of removing the disability of minority or mental incapacity, shall be furnished by the person filing the pleading to the proper office of the veterans administration. Unless hearing is waived in writing by the attorney of the veterans administration and by all other persons entitled to notice, the court shall fix a time and place for the hearing on the account in the manner provided by section 2109.32 of the Revised Code for publishing fiduciary accounts, unless a different available date is stipulated in writing. Unless waived in writing, written notice of the time and place of

hearing shall be given to the veterans administration office concerned not less than fifteen days prior to the date fixed for the hearing. The notice may be given by mail in which event it shall be deposited in the mails not less than fifteen days prior to that date. The court or its clerk shall furnish to that veterans administration office a copy of each order entered in any guardianship proceeding in which the administrator is an interested party.

If the guardian is accountable for property derived from sources other than the veterans administration, ~~he~~ the guardian shall be accountable under section ~~2109.30~~ 2109.302 of the Revised Code, and, as to the other property, the guardian shall be entitled to the compensation provided by section 2109.23 of the Revised Code. The account for other property shall be combined with the account filed in accordance with this section unless otherwise ordered by the court.

SECTION 2. That existing sections 2106.01, 2106.02, 2106.13, 2107.19, 2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18, 2109.24, 2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 2115.09, 3705.09, and 5905.11, all existing versions of section 2117.06 that were in effect prior to, on, or after January 27, 1997, the effective date of Am. Sub. H.B. 350 of the 121st General Assembly, and section 2113.533 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly hereby encourages the Supreme Court to amend Rule 59(B) of the Ohio Rules of Superintendence to require fiduciaries appointed to administer testate estates to file a Certificate of Service of Notice of Probate of Will within two weeks of the fiduciary's appointment.

SECTION 4. The version of section 2117.06 of the Revised Code that is presented in this act is the version of that section that was in effect immediately prior to the effective date of Am. Sub. H.B. 350 of the 121st General Assembly. That version of section 2117.06 of the Revised Code is used in this act in order to repeal the amendments made to that section by Am. Sub. H.B. 350 of the 121st General Assembly, to revive the version of that section in effect immediately prior to January 27, 1997, the effective date of that act, and to clarify the existing language of that section.

SECTION 5. Sections 2106.01, 2106.02, 2106.13, 2107.19, 2107.76,

2109.07, 2109.09, 2109.18, 2109.24, 2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 2115.09, and 2117.06 of the Revised Code, as amended by this act, and sections 2106.25 and 2109.301 of the Revised Code, as enacted by this act, apply only to estates of decedents who die on or after January 1, 2002.

SECTION 6. Sections 2109.12, 2109.18, 2109.24, 2109.30, and 5905.11 of the Revised Code, as amended by this act, and section 2109.302 of the Revised Code, as enacted by this act, apply to guardians or conservators of wards' estates that are in existence or are created on or after January 1, 2002.

SECTION 7. Sections 2109.11, 2109.18, 2109.24, and 2109.30 of the Revised Code, as amended by this act, and section 2109.303 of the Revised Code, as enacted by this act, apply to testamentary trustees or other fiduciaries of trusts that are in existence or are created on or after January 1, 2002 or to other fiduciaries under governing instruments that are in existence or are created on or after January 1, 2002.

As used in this section, "other fiduciary" has the same meaning as in section 2109.303 of the Revised Code, as enacted by this act.

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 _____