

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 158

Representatives Dever, Howse

Cosponsors: Representatives Amstutz, Anielski, Antonio, Bishoff, Boyd, Brown, Butler, Conditt, Derickson, DeVitis, Dovilla, Ginter, Hambley, Hayes, Huffman, Lepore-Hagan, Maag, McClain, Patmon, Patterson, Phillips, Ramos, Reineke, Retherford, Romanchuk, Ryan, Schuring, Sears, Slesnick, Sweeney, Sykes, Zeltwanger

A BILL

To amend sections 1.02, 121.22, 121.37, 135.801, 1
145.01, 145.012, 145.298, 145.332, 149.431, 2
152.04, 152.09, 154.02, 154.07, 154.20, 173.25, 3
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5711.07, 5747.03, 5815.28, and 5815.35 of the	49
Revised Code to change the variations of the	50
term "mentally retarded person" to "person with	51
an intellectual disability."	52

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

Section 1. That sections 1.02, 121.22, 121.37, 135.801, 53
145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 152.09, 54
154.02, 154.07, 154.20, 173.25, 173.27, 173.38, 173.381, 305.07, 55
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2903.341, 2905.32, 2907.24, 2919.23, 2929.01, 2929.04, 2929.06, 61
2930.061, 2930.16, 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 62
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5709.73, 5709.78, 5711.07, 5747.03, 5815.28, and 5815.35 of the 89
Revised Code be amended to read as follows: 90

Sec. 1.02. As used in the Revised Code, unless the context 91
otherwise requires: 92

(A) "Whoever" includes all persons, natural and 93
artificial; partners; principals, agents, and employees; and all 94
officials, public or private. 95

(B) "Another," when used to designate the owner of 96
property which is the subject of an offense, includes not only 97
natural persons but also every other owner of property. 98

(C) "Of unsound mind" includes all forms of ~~mental~~ 99
~~retardation~~ intellectual disability or derangement. 100

(D) "Bond" includes an undertaking. 101

(E) "Undertaking" includes a bond. 102

(F) "And" may be read "or," and "or" may be read "and" if 103
the sense requires it. 104

(G) "Registered mail" includes certified mail and 105
"certified mail" includes registered mail. 106

Sec. 121.22. (A) This section shall be liberally construed 107
to require public officials to take official action and to 108
conduct all deliberations upon official business only in open 109

meetings unless the subject matter is specifically excepted by	110
law.	111
(B) As used in this section:	112
(1) "Public body" means any of the following:	113
(a) Any board, commission, committee, council, or similar	114
decision-making body of a state agency, institution, or	115
authority, and any legislative authority or board, commission,	116
committee, council, agency, authority, or similar decision-	117
making body of any county, township, municipal corporation,	118
school district, or other political subdivision or local public	119
institution;	120
(b) Any committee or subcommittee of a body described in	121
division (B) (1) (a) of this section;	122
(c) A court of jurisdiction of a sanitary district	123
organized wholly for the purpose of providing a water supply for	124
domestic, municipal, and public use when meeting for the purpose	125
of the appointment, removal, or reappointment of a member of the	126
board of directors of such a district pursuant to section	127
6115.10 of the Revised Code, if applicable, or for any other	128
matter related to such a district other than litigation	129
involving the district. As used in division (B) (1) (c) of this	130
section, "court of jurisdiction" has the same meaning as "court"	131
in section 6115.01 of the Revised Code.	132
(2) "Meeting" means any prearranged discussion of the	133
public business of the public body by a majority of its members.	134
(3) "Regulated individual" means either of the following:	135
(a) A student in a state or local public educational	136
institution;	137

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or ~~retardation~~ intellectual disability, disease, disability, age, or other condition requiring custodial care.

(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

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

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	166 167 168
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	169 170 171 172
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;	173 174 175 176
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	177 178 179
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	180 181 182
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	183 184 185 186 187
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	188 189 190 191
(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section	192 193 194

5101.37 of the Revised Code;	195
(13) The occupational therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license or limited permit without a hearing pursuant to division (D) of section 4755.11 of the Revised Code;	196 197 198 199 200
(14) The physical therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (E) of section 4755.47 of the Revised Code;	201 202 203 204
(15) The athletic trainers section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (D) of section 4755.64 of the Revised Code.	205 206 207 208
(E) The controlling board, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board or authority members present, may close the meeting during consideration of the following information confidentially received by the authority or board from the applicant:	209 210 211 212 213 214 215 216 217
(1) Marketing plans;	218
(2) Specific business strategy;	219
(3) Production techniques and trade secrets;	220
(4) Financial projections;	221
(5) Personal financial statements of the applicant or	222

members of the applicant's immediate family, including, but not 223
limited to, tax records or other similar information not open to 224
public inspection. 225

The vote by the authority or board to accept or reject the 226
application, as well as all proceedings of the authority or 227
board not subject to this division, shall be open to the public 228
and governed by this section. 229

(F) Every public body, by rule, shall establish a 230
reasonable method whereby any person may determine the time and 231
place of all regularly scheduled meetings and the time, place, 232
and purpose of all special meetings. A public body shall not 233
hold a special meeting unless it gives at least twenty-four 234
hours' advance notice to the news media that have requested 235
notification, except in the event of an emergency requiring 236
immediate official action. In the event of an emergency, the 237
member or members calling the meeting shall notify the news 238
media that have requested notification immediately of the time, 239
place, and purpose of the meeting. 240

The rule shall provide that any person, upon request and 241
payment of a reasonable fee, may obtain reasonable advance 242
notification of all meetings at which any specific type of 243
public business is to be discussed. Provisions for advance 244
notification may include, but are not limited to, mailing the 245
agenda of meetings to all subscribers on a mailing list or 246
mailing notices in self-addressed, stamped envelopes provided by 247
the person. 248

(G) Except as provided in divisions (G) (8) and (J) of this 249
section, the members of a public body may hold an executive 250
session only after a majority of a quorum of the public body 251
determines, by a roll call vote, to hold an executive session 252

and only at a regular or special meeting for the sole purpose of 253
the consideration of any of the following matters: 254

(1) To consider the appointment, employment, dismissal, 255
discipline, promotion, demotion, or compensation of a public 256
employee or official, or the investigation of charges or 257
complaints against a public employee, official, licensee, or 258
regulated individual, unless the public employee, official, 259
licensee, or regulated individual requests a public hearing. 260
Except as otherwise provided by law, no public body shall hold 261
an executive session for the discipline of an elected official 262
for conduct related to the performance of the elected official's 263
official duties or for the elected official's removal from 264
office. If a public body holds an executive session pursuant to 265
division (G) (1) of this section, the motion and vote to hold 266
that executive session shall state which one or more of the 267
approved purposes listed in division (G) (1) of this section are 268
the purposes for which the executive session is to be held, but 269
need not include the name of any person to be considered at the 270
meeting. 271

(2) To consider the purchase of property for public 272
purposes, or for the sale of property at competitive bidding, if 273
premature disclosure of information would give an unfair 274
competitive or bargaining advantage to a person whose personal, 275
private interest is adverse to the general public interest. No 276
member of a public body shall use division (G) (2) of this 277
section as a subterfuge for providing covert information to 278
prospective buyers or sellers. A purchase or sale of public 279
property is void if the seller or buyer of the public property 280
has received covert information from a member of a public body 281
that has not been disclosed to the general public in sufficient 282
time for other prospective buyers and sellers to prepare and 283

submit offers.	284
If the minutes of the public body show that all meetings	285
and deliberations of the public body have been conducted in	286
compliance with this section, any instrument executed by the	287
public body purporting to convey, lease, or otherwise dispose of	288
any right, title, or interest in any public property shall be	289
conclusively presumed to have been executed in compliance with	290
this section insofar as title or other interest of any bona fide	291
purchasers, lessees, or transferees of the property is	292
concerned.	293
(3) Conferences with an attorney for the public body	294
concerning disputes involving the public body that are the	295
subject of pending or imminent court action;	296
(4) Preparing for, conducting, or reviewing negotiations	297
or bargaining sessions with public employees concerning their	298
compensation or other terms and conditions of their employment;	299
(5) Matters required to be kept confidential by federal	300
law or regulations or state statutes;	301
(6) Details relative to the security arrangements and	302
emergency response protocols for a public body or a public	303
office, if disclosure of the matters discussed could reasonably	304
be expected to jeopardize the security of the public body or	305
public office;	306
(7) In the case of a county hospital operated pursuant to	307
Chapter 339. of the Revised Code, a joint township hospital	308
operated pursuant to Chapter 513. of the Revised Code, or a	309
municipal hospital operated pursuant to Chapter 749. of the	310
Revised Code, to consider trade secrets, as defined in section	311
1333.61 of the Revised Code;	312

(8) To consider confidential information related to the 313
marketing plans, specific business strategy, production 314
techniques, trade secrets, or personal financial statements of 315
an applicant for economic development assistance, or to 316
negotiations with other political subdivisions respecting 317
requests for economic development assistance, provided that both 318
of the following conditions apply: 319

~~(1)~~(a) The information is directly related to a request 320
for economic development assistance that is to be provided or 321
administered under any provision of Chapter 715., 725., 1724., 322
or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 323
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 324
5709.81 of the Revised Code, or that involves public 325
infrastructure improvements or the extension of utility services 326
that are directly related to an economic development project. 327

~~(2)~~(b) A unanimous quorum of the public body determines, 328
by a roll call vote, that the executive session is necessary to 329
protect the interests of the applicant or the possible 330
investment or expenditure of public funds to be made in 331
connection with the economic development project. 332

If a public body holds an executive session to consider 333
any of the matters listed in divisions (G)(2) to (8) of this 334
section, the motion and vote to hold that executive session 335
shall state which one or more of the approved matters listed in 336
those divisions are to be considered at the executive session. 337

A public body specified in division (B)(1)(c) of this 338
section shall not hold an executive session when meeting for the 339
purposes specified in that division. 340

(H) A resolution, rule, or formal action of any kind is 341

invalid unless adopted in an open meeting of the public body. A 342
resolution, rule, or formal action adopted in an open meeting 343
that results from deliberations in a meeting not open to the 344
public is invalid unless the deliberations were for a purpose 345
specifically authorized in division (G) or (J) of this section 346
and conducted at an executive session held in compliance with 347
this section. A resolution, rule, or formal action adopted in an 348
open meeting is invalid if the public body that adopted the 349
resolution, rule, or formal action violated division (F) of this 350
section. 351

(I) (1) Any person may bring an action to enforce this 352
section. An action under division (I) (1) of this section shall 353
be brought within two years after the date of the alleged 354
violation or threatened violation. Upon proof of a violation or 355
threatened violation of this section in an action brought by any 356
person, the court of common pleas shall issue an injunction to 357
compel the members of the public body to comply with its 358
provisions. 359

(2) (a) If the court of common pleas issues an injunction 360
pursuant to division (I) (1) of this section, the court shall 361
order the public body that it enjoins to pay a civil forfeiture 362
of five hundred dollars to the party that sought the injunction 363
and shall award to that party all court costs and, subject to 364
reduction as described in division (I) (2) of this section, 365
reasonable attorney's fees. The court, in its discretion, may 366
reduce an award of attorney's fees to the party that sought the 367
injunction or not award attorney's fees to that party if the 368
court determines both of the following: 369

(i) That, based on the ordinary application of statutory 370
law and case law as it existed at the time of violation or 371

threatened violation that was the basis of the injunction, a 372
well-informed public body reasonably would believe that the 373
public body was not violating or threatening to violate this 374
section; 375

(ii) That a well-informed public body reasonably would 376
believe that the conduct or threatened conduct that was the 377
basis of the injunction would serve the public policy that 378
underlies the authority that is asserted as permitting that 379
conduct or threatened conduct. 380

(b) If the court of common pleas does not issue an 381
injunction pursuant to division (I)(1) of this section and the 382
court determines at that time that the bringing of the action 383
was frivolous conduct, as defined in division (A) of section 384
2323.51 of the Revised Code, the court shall award to the public 385
body all court costs and reasonable attorney's fees, as 386
determined by the court. 387

(3) Irreparable harm and prejudice to the party that 388
sought the injunction shall be conclusively and irrebuttably 389
presumed upon proof of a violation or threatened violation of 390
this section. 391

(4) A member of a public body who knowingly violates an 392
injunction issued pursuant to division (I)(1) of this section 393
may be removed from office by an action brought in the court of 394
common pleas for that purpose by the prosecuting attorney or the 395
attorney general. 396

(J)(1) Pursuant to division (C) of section 5901.09 of the 397
Revised Code, a veterans service commission shall hold an 398
executive session for one or more of the following purposes 399
unless an applicant requests a public hearing: 400

(a) Interviewing an applicant for financial assistance 401
under sections 5901.01 to 5901.15 of the Revised Code; 402

(b) Discussing applications, statements, and other 403
documents described in division (B) of section 5901.09 of the 404
Revised Code; 405

(c) Reviewing matters relating to an applicant's request 406
for financial assistance under sections 5901.01 to 5901.15 of 407
the Revised Code. 408

(2) A veterans service commission shall not exclude an 409
applicant for, recipient of, or former recipient of financial 410
assistance under sections 5901.01 to 5901.15 of the Revised 411
Code, and shall not exclude representatives selected by the 412
applicant, recipient, or former recipient, from a meeting that 413
the commission conducts as an executive session that pertains to 414
the applicant's, recipient's, or former recipient's application 415
for financial assistance. 416

(3) A veterans service commission shall vote on the grant 417
or denial of financial assistance under sections 5901.01 to 418
5901.15 of the Revised Code only in an open meeting of the 419
commission. The minutes of the meeting shall indicate the name, 420
address, and occupation of the applicant, whether the assistance 421
was granted or denied, the amount of the assistance if 422
assistance is granted, and the votes for and against the 423
granting of assistance. 424

Sec. 121.37. (A) (1) There is hereby created the Ohio 425
family and children first cabinet council. The council shall be 426
composed of the superintendent of public instruction, the 427
executive director of the opportunities for Ohioans with 428
disabilities agency, the medicaid director, and the directors of 429

youth services, job and family services, mental health and 430
addiction services, health, developmental disabilities, aging, 431
rehabilitation and correction, and budget and management. The 432
chairperson of the council shall be the governor or the 433
governor's designee and shall establish procedures for the 434
council's internal control and management. 435

The purpose of the cabinet council is to help families 436
seeking government services. This section shall not be 437
interpreted or applied to usurp the role of parents, but solely 438
to streamline and coordinate existing government services for 439
families seeking assistance for their children. 440

(2) In seeking to fulfill its purpose, the council may do 441
any of the following: 442

(a) Advise and make recommendations to the governor and 443
general assembly regarding the provision of services to 444
children; 445

(b) Advise and assess local governments on the 446
coordination of service delivery to children; 447

(c) Hold meetings at such times and places as may be 448
prescribed by the council's procedures and maintain records of 449
the meetings, except that records identifying individual 450
children are confidential and shall be disclosed only as 451
provided by law; 452

(d) Develop programs and projects, including pilot 453
projects, to encourage coordinated efforts at the state and 454
local level to improve the state's social service delivery 455
system; 456

(e) Enter into contracts with and administer grants to 457
county family and children first councils, as well as other 458

county or multicounty organizations to plan and coordinate 459
service delivery between state agencies and local service 460
providers for families and children; 461

(f) Enter into contracts with and apply for grants from 462
federal agencies or private organizations; 463

(g) Enter into interagency agreements to encourage 464
coordinated efforts at the state and local level to improve the 465
state's social service delivery system. The agreements may 466
include provisions regarding the receipt, transfer, and 467
expenditure of funds; 468

(h) Identify public and private funding sources for 469
services provided to alleged or adjudicated unruly children and 470
children who are at risk of being alleged or adjudicated unruly 471
children, including regulations governing access to and use of 472
the services; 473

(i) Collect information provided by local communities 474
regarding successful programs for prevention, intervention, and 475
treatment of unruly behavior, including evaluations of the 476
programs; 477

(j) Identify and disseminate publications regarding 478
alleged or adjudicated unruly children and children who are at 479
risk of being alleged or adjudicated unruly children and 480
regarding programs serving those types of children; 481

(k) Maintain an inventory of strategic planning 482
facilitators for use by government or nonprofit entities that 483
serve alleged or adjudicated unruly children or children who are 484
at risk of being alleged or adjudicated unruly children. 485

(3) The cabinet council shall provide for the following: 486

(a) Reviews of service and treatment plans for children 487
for which such reviews are requested; 488

(b) Assistance as the council determines to be necessary 489
to meet the needs of children referred by county family and 490
children first councils; 491

(c) Monitoring and supervision of a statewide, 492
comprehensive, coordinated, multi-disciplinary, interagency 493
system for infants and toddlers with developmental disabilities 494
or delays and their families, as established pursuant to federal 495
grants received and administered by the department of health for 496
early intervention services under the "Individuals with 497
Disabilities Education Act of 2004," 118 Stat. 2744, 20 U.S.C.A. 498
1400, as amended. 499

(4) The cabinet council shall develop and implement the 500
following: 501

(a) An interagency process to select the indicators that 502
will be used to measure progress toward increasing child well- 503
being in the state and to update the indicators on an annual 504
basis. The indicators shall focus on expectant parents and 505
newborns thriving; infants and toddlers thriving; children being 506
ready for school; children and youth succeeding in school; youth 507
choosing healthy behaviors; and youth successfully transitioning 508
into adulthood. 509

(b) An interagency system to offer guidance and monitor 510
progress toward increasing child well-being in the state and in 511
each county; 512

(c) An annual plan that identifies state-level agency 513
efforts taken to ensure progress towards increasing child well- 514
being in the state. 515

On an annual basis, the cabinet council shall submit to 516
the governor and the general assembly a report on the status of 517
efforts to increase child well-being in the state. This report 518
shall be made available to any other person on request. 519

(B) (1) Each board of county commissioners shall establish 520
a county family and children first council. The board may invite 521
any local public or private agency or group that funds, 522
advocates, or provides services to children and families to have 523
a representative become a permanent or temporary member of its 524
county council. Each county council must include the following 525
individuals: 526

(a) At least three individuals who are not employed by an 527
agency represented on the council and whose families are or have 528
received services from an agency represented on the council or 529
another county's council. Where possible, the number of members 530
representing families shall be equal to twenty per cent of the 531
council's membership. 532

(b) The director of the board of alcohol, drug addiction, 533
and mental health services that serves the county, or, in the 534
case of a county that has a board of alcohol and drug addiction 535
services and a community mental health board, the directors of 536
both boards. If a board of alcohol, drug addiction, and mental 537
health services covers more than one county, the director may 538
designate a person to participate on the county's council. 539

(c) The health commissioner, or the commissioner's 540
designee, of the board of health of each city and general health 541
district in the county. If the county has two or more health 542
districts, the health commissioner membership may be limited to 543
the commissioners of the two districts with the largest 544
populations. 545

- (d) The director of the county department of job and family services; 546
547
- (e) The executive director of the public children services agency; 548
549
- (f) The superintendent of the county board of developmental disabilities or, if the superintendent serves as superintendent of more than one county board of developmental disabilities, the superintendent's designee; 550
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553
- (g) 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 board of county commissioners of its determination at least biennially; 554
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558
- (h) 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; 559
560
561
- (i) A representative of the municipal corporation with the largest population in the county; 562
563
- (j) The president of the board of county commissioners or an individual designated by the board; 564
565
- (k) A representative of the regional office of the department of youth services; 566
567
- (l) A representative of the county's head start agencies, as defined in section 3301.32 of the Revised Code; 568
569
- (m) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Individuals with Disabilities Education Act of 2004"; 570
571
572
573

(n) A representative of a local nonprofit entity that 574
funds, advocates, or provides services to children and families. 575

Notwithstanding any other provision of law, the public 576
members of a county council are not prohibited from serving on 577
the council and making decisions regarding the duties of the 578
council, including those involving the funding of joint projects 579
and those outlined in the county's service coordination 580
mechanism implemented pursuant to division (C) of this section. 581

The cabinet council shall establish a state appeals 582
process to resolve disputes among the members of a county 583
council concerning whether reasonable responsibilities as 584
members are being shared. The appeals process may be accessed 585
only by a majority vote of the council members who are required 586
to serve on the council. Upon appeal, the cabinet council may 587
order that state funds for services to children and families be 588
redirected to a county's board of county commissioners. 589

The county's juvenile court judge senior in service or 590
another judge of the juvenile court designated by the 591
administrative judge or, where there is no administrative judge, 592
by the judge senior in service shall serve as the judicial 593
advisor to the county family and children first council. The 594
judge may advise the county council on the court's utilization 595
of resources, services, or programs provided by the entities 596
represented by the members of the county council and how those 597
resources, services, or programs assist the court in its 598
administration of justice. Service of a judge as a judicial 599
advisor pursuant to this section is a judicial function. 600

(2) The purpose of the county council is to streamline and 601
coordinate existing government services for families seeking 602
services for their children. In seeking to fulfill its purpose, 603

a county council shall provide for the following: 604

(a) Referrals to the cabinet council of those children for 605
whom the county council cannot provide adequate services; 606

(b) Development and implementation of a process that 607
annually evaluates and prioritizes services, fills service gaps 608
where possible, and invents new approaches to achieve better 609
results for families and children; 610

(c) Participation in the development of a countywide, 611
comprehensive, coordinated, multi-disciplinary, interagency 612
system for infants and toddlers with developmental disabilities 613
or delays and their families, as established pursuant to federal 614
grants received and administered by the department of health for 615
early intervention services under the "Individuals with 616
Disabilities Education Act of 2004"; 617

(d) Maintenance of an accountability system to monitor the 618
county council's progress in achieving results for families and 619
children; 620

(e) Establishment of a mechanism to ensure ongoing input 621
from a broad representation of families who are receiving 622
services within the county system. 623

(3) A county council shall develop and implement the 624
following: 625

(a) An interagency process to establish local indicators 626
and monitor the county's progress toward increasing child well- 627
being in the county; 628

(b) An interagency process to identify local priorities to 629
increase child well-being. The local priorities shall focus on 630
expectant parents and newborns thriving; infants and toddlers 631

thriving; children being ready for school; children and youth 632
succeeding in school; youth choosing healthy behaviors; and 633
youth successfully transitioning into adulthood and take into 634
account the indicators established by the cabinet council under 635
division (A) (4) (a) of this section. 636

(c) An annual plan that identifies the county's 637
interagency efforts to increase child well-being in the county. 638

On an annual basis, the county council shall submit a 639
report on the status of efforts by the county to increase child 640
well-being in the county to the county's board of county 641
commissioners and the cabinet council. This report shall be made 642
available to any other person on request. 643

(4) (a) Except as provided in division (B) (4) (b) of this 644
section, a county council shall comply with the policies, 645
procedures, and activities prescribed by the rules or 646
interagency agreements of a state department participating on 647
the cabinet council whenever the county council performs a 648
function subject to those rules or agreements. 649

(b) On application of a county council, the cabinet 650
council may grant an exemption from any rules or interagency 651
agreements of a state department participating on the council if 652
an exemption is necessary for the council to implement an 653
alternative program or approach for service delivery to families 654
and children. The application shall describe the proposed 655
program or approach and specify the rules or interagency 656
agreements from which an exemption is necessary. The cabinet 657
council shall approve or disapprove the application in 658
accordance with standards and procedures it shall adopt. If an 659
application is approved, the exemption is effective only while 660
the program or approach is being implemented, including a 661

reasonable period during which the program or approach is being 662
evaluated for effectiveness. 663

(5) (a) Each county council shall designate an 664
administrative agent for the council from among the following 665
public entities: the board of alcohol, drug addiction, and 666
mental health services, including a board of alcohol and drug 667
addiction or a community mental health board if the county is 668
served by separate boards; the board of county commissioners; 669
any board of health of the county's city and general health 670
districts; the county department of job and family services; the 671
county agency responsible for the administration of children 672
services pursuant to section 5153.15 of the Revised Code; the 673
county board of developmental disabilities; any of the county's 674
boards of education or governing boards of educational service 675
centers; or the county's juvenile court. Any of the foregoing 676
public entities, other than the board of county commissioners, 677
may decline to serve as the council's administrative agent. 678

A county council's administrative agent shall serve as the 679
council's appointing authority for any employees of the council. 680
The council shall file an annual budget with its administrative 681
agent, with copies filed with the county auditor and with the 682
board of county commissioners, unless the board is serving as 683
the council's administrative agent. The council's administrative 684
agent shall ensure that all expenditures are handled in 685
accordance with policies, procedures, and activities prescribed 686
by state departments in rules or interagency agreements that are 687
applicable to the council's functions. 688

The administrative agent of a county council shall send 689
notice of a member's absence if a member listed in division (B) 690
(1) of this section has been absent from either three 691

consecutive meetings of the county council or a county council subcommittee, or from one-quarter of such meetings in a calendar year, whichever is less. The notice shall be sent to the board of county commissioners that establishes the county council and, for the members listed in divisions (B) (1) (b), (c), (e), and (1) of this section, to the governing board overseeing the respective entity; for the member listed in division (B) (1) (f) of this section, to the county board of developmental disabilities that employs the superintendent; for a member listed in division (B) (1) (g) or (h) of this section, to the school board that employs the superintendent; for the member listed in division (B) (1) (i) of this section, to the mayor of the municipal corporation; for the member listed in division (B) (1) (k) of this section, to the director of youth services; and for the member listed in division (B) (1) (n) of this section, to that member's board of trustees.

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

(i) 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 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.

(ii) As determined by the council, provide financial 722
stipends, reimbursements, or both, to family representatives for 723
expenses related to council activity; 724

(iii) Receive by gift, grant, devise, or bequest any 725
moneys, lands, or other property for the purposes for which the 726
council is established. The agent shall hold, apply, and dispose 727
of the moneys, lands, or other property according to the terms 728
of the gift, grant, devise, or bequest. Any interest or earnings 729
shall be treated in the same manner and are subject to the same 730
terms as the gift, grant, devise, or bequest from which it 731
accrues. 732

(b) (i) If the county council designates the board of 733
county commissioners as its administrative agent, the board may, 734
by resolution, delegate any of its powers and duties as 735
administrative agent to an executive committee the board 736
establishes from the membership of the county council. The board 737
shall name to the executive committee at least the individuals 738
described in divisions (B) (1) (b) to (h) of this section and may 739
appoint the president of the board or another individual as the 740
chair of the executive committee. The executive committee must 741
include at least one family county council representative who 742
does not have a family member employed by an agency represented 743
on the council. 744

(ii) The executive committee may, with the approval of the 745
board, hire an executive director to assist the county council 746
in administering its powers and duties. The executive director 747
shall serve in the unclassified civil service at the pleasure of 748
the executive committee. The executive director may, with the 749
approval of the executive committee, hire other employees as 750
necessary to properly conduct the county council's business. 751

(iii) The board may require the executive committee to 752
submit an annual budget to the board for approval and may amend 753
or repeal the resolution that delegated to the executive 754
committee its authority as the county council's administrative 755
agent. 756

(6) Two or more county councils may enter into an 757
agreement to administer their county councils jointly by 758
creating a regional family and children first council. A 759
regional council possesses the same duties and authority 760
possessed by a county council, except that the duties and 761
authority apply regionally rather than to individual counties. 762
Prior to entering into an agreement to create a regional 763
council, the members of each county council to be part of the 764
regional council shall meet to determine whether all or part of 765
the members of each county council will serve as members of the 766
regional council. 767

(7) A board of county commissioners may approve a 768
resolution by a majority vote of the board's members that 769
requires the county council to submit a statement to the board 770
each time the council proposes to enter into an agreement, adopt 771
a plan, or make a decision, other than a decision pursuant to 772
section 121.38 of the Revised Code, that requires the 773
expenditure of funds for two or more families. The statement 774
shall describe the proposed agreement, plan, or decision. 775

Not later than fifteen days after the board receives the 776
statement, it shall, by resolution approved by a majority of its 777
members, approve or disapprove the agreement, plan, or decision. 778
Failure of the board to pass a resolution during that time 779
period shall be considered approval of the agreement, plan, or 780
decision. 781

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 county service coordination mechanism shall serve as the guiding document for coordination of services in the county. For children who also receive services under the help me grow program, the service coordination mechanism shall be consistent with rules adopted by the department of health under section 3701.61 of the Revised Code. All family service coordination plans shall be developed in accordance with the county service coordination mechanism. The mechanism shall be developed and approved with the participation of the county entities representing child welfare; ~~mental retardation~~ intellectual disabilities 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 "Individuals with Disabilities Education Act of 2004." 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 an agency, including a juvenile court, or a family voluntarily seeking service coordination, to refer the child and family to the county council for service coordination in accordance with the mechanism;

(2) A procedure ensuring that a family and all appropriate

staff from involved agencies, including a representative from 812
the appropriate school district, are notified of and invited to 813
participate in all family service coordination plan meetings; 814

(3) A procedure that permits a family to initiate a 815
meeting to develop or review the family's service coordination 816
plan and allows the family to invite a family advocate, mentor, 817
or support person of the family's choice to participate in any 818
such meeting; 819

(4) A procedure for ensuring that a family service 820
coordination plan meeting is conducted for each child who 821
receives service coordination under the mechanism and for whom 822
an emergency out-of-home placement has been made or for whom a 823
nonemergency out-of-home placement is being considered. The 824
meeting shall be conducted within ten days of an emergency out- 825
of-home placement. The meeting shall be conducted before a 826
nonemergency out-of-home placement. The family service 827
coordination plan shall outline how the county council members 828
will jointly pay for services, where applicable, and provide 829
services in the least restrictive environment. 830

(5) A procedure for monitoring the progress and tracking 831
the outcomes of each service coordination plan requested in the 832
county including monitoring and tracking children in out-of-home 833
placements to assure continued progress, appropriateness of 834
placement, and continuity of care after discharge from placement 835
with appropriate arrangements for housing, treatment, and 836
education; 837

(6) A procedure for protecting the confidentiality of all 838
personal family information disclosed during service 839
coordination meetings or contained in the comprehensive family 840
service coordination plan; 841

(7) A procedure for assessing the needs and strengths of any child or family that has been referred to the council for service coordination, including a child whose parent or custodian is voluntarily seeking services, and for ensuring that parents and custodians are afforded the opportunity to participate;

(8) A procedure for development of a family service coordination plan described in division (D) of this section;

(9) 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, alleged 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 sections 121.38, 121.381, and 121.382 of the Revised Code. The local dispute resolution process shall be used to resolve disputes between a child's parents or custodians and the county council regarding service coordination. The county council shall inform the parents or custodians of their right to use the dispute resolution process. Parents or custodians shall use existing local agency grievance procedures to address disputes not involving service coordination. The dispute resolution process is in addition to and does not replace other rights or procedures that parents or custodians may have under other sections 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. 872

Nothing in division (C) (4) of this section shall be 873
interpreted as overriding or affecting decisions of a juvenile 874
court regarding an out-of-home placement, long-term placement, 875
or emergency out-of-home placement. 876

(D) Each county shall develop a family service 877
coordination plan that does all of the following: 878

(1) Designates service responsibilities among the various 879
state and local agencies that provide services to children and 880
their families, including children who are abused, neglected, 881
dependent, unruly, or delinquent children and under the 882
jurisdiction of the juvenile court and children whose parents or 883
custodians are voluntarily seeking services; 884

(2) Designates an individual, approved by the family, to 885
track the progress of the family service coordination plan, 886
schedule reviews as necessary, and facilitate the family service 887
coordination plan meeting process; 888

(3) Ensures that assistance and services to be provided 889
are responsive to the strengths and needs of the family, as well 890
as the family's culture, race, and ethnic group, by allowing the 891
family to offer information and suggestions and participate in 892
decisions. Identified assistance and services shall be provided 893
in the least restrictive environment possible. 894

(4) Includes a process for dealing with a child who is 895
alleged to be an unruly child. The process shall include methods 896
to divert the child from the juvenile court system; 897

(5) Includes timelines for completion of goals specified 898
in the plan with regular reviews scheduled to monitor progress 899
toward those goals; 900

(6) Includes a plan for dealing with short-term crisis situations and safety concerns. 901
902

(E) (1) The process provided for under division (D) (4) of this section may include, but is not limited to, the following: 903
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(a) Designation of the person or agency to conduct the assessment of the child and the child's family as described in division (C) (7) of this section and designation of the instrument or instruments to be used to conduct the assessment; 905
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908

(b) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child; 909
910
911

(c) Involvement of local law enforcement agencies and officials. 912
913

(2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following: 914
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916

(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system; 917
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(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system; 923
924
925
926

(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation 927
928

involving a confrontation between the child and the parents,
guardian, or custodian;

(d) A program to provide a mentor to the child or the
parents, guardian, or custodian;

(e) A program to provide parenting education to the
parents, guardian, or custodian;

(f) An alternative school program for children who are
truant from school, repeatedly disruptive in school, or
suspended or expelled from school;

(g) Other appropriate measures, including, but not limited
to, any alternative methods to divert a child from the juvenile
court system that are identified by the Ohio family and children
first cabinet council.

(F) Each county may review and revise the service
coordination process described in division (D) of this section
based on the availability of funds under Title IV-A of the
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601,
as amended, or to the extent resources are available from any
other federal, state, or local funds.

Sec. 135.801. (A) As used in sections 135.801 to 135.803
of the Revised Code, "eligible lending institution," "eligible
organization," "investing authority," "residential facility,"
and "residential facility linked deposit program" have the same
meanings as in section 5126.51 of the Revised Code.

(B) The board of county commissioners may adopt a
resolution implementing a residential facility linked deposit
program under sections 5126.51 to 5126.62 of the Revised Code if
it finds each of the following:

(1) The county board of developmental disabilities has adopted a resolution under section 5126.49 of the Revised Code.	957 958
(2) There is a shortage of residential facilities in the county for individuals with mental retardation <u>intellectual disabilities</u> or developmental disabilities.	959 960 961
(3) Eligible organizations, otherwise willing and able to develop residential facilities in the county, have been unable to do so because of high interest rates.	962 963 964
(4) Placement of residential facility linked deposits will assist in financing the development of residential facilities in the county that otherwise would not be developed because of high interest rates.	965 966 967 968
(5) Public moneys of the county are available for purposes of the residential facility linked deposit program.	969 970
(6) At least one eligible lending institution has an office located within the territorial limits of the county into which the board may deposit the public moneys of the county.	971 972 973
Sec. 145.01. As used in this chapter:	974
(A) "Public employee" means:	975
(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general	976 977 978 979 980 981 982 983 984

assembly or by the legislative authority of any of the units of 985
local government named in division (A) (1) of this section, or 986
employed and paid in whole or in part by the state or any of the 987
authorities named in division (A) (1) of this section in any 988
capacity not covered by section 742.01, 3307.01, 3309.01, or 989
5505.01 of the Revised Code. 990

(2) A person who is a member of the public employees 991
retirement system and who continues to perform the same or 992
similar duties under the direction of a contractor who has 993
contracted to take over what before the date of the contract was 994
a publicly operated function. The governmental unit with which 995
the contract has been made shall be deemed the employer for the 996
purposes of administering this chapter. 997

(3) Any person who is an employee of a public employer, 998
notwithstanding that the person's compensation for that 999
employment is derived from funds of a person or entity other 1000
than the employer. Credit for such service shall be included as 1001
total service credit, provided that the employee makes the 1002
payments required by this chapter, and the employer makes the 1003
payments required by sections 145.48 and 145.51 of the Revised 1004
Code. 1005

(4) A person who elects in accordance with section 145.015 1006
of the Revised Code to remain a contributing member of the 1007
public employees retirement system. 1008

(5) A person who is an employee of the legal rights 1009
service on September 30, 2012, and continues to be employed by 1010
the nonprofit entity established under Section 319.20 of Am. 1011
Sub. H.B. 153 of the 129th general assembly. The nonprofit 1012
entity is the employer for the purpose of this chapter. 1013

In all cases of doubt, the public employees retirement board shall determine under section 145.036, 145.037, or 145.038 of the Revised Code whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical university, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public

employee. 1044

(E) "Prior military service" also means all service 1045
credited for active duty with the armed forces of the United 1046
States as provided in section 145.30 of the Revised Code. 1047

(F) "Contributor" means any person who has an account in 1048
the employees' savings fund created by section 145.23 of the 1049
Revised Code. When used in the sections listed in division (B) 1050
of section 145.82 of the Revised Code, "contributor" includes 1051
any person participating in a PERS defined contribution plan. 1052

(G) "Beneficiary" or "beneficiaries" means the estate or a 1053
person or persons who, as the result of the death of a member, 1054
contributor, or retirant, qualify for or are receiving some 1055
right or benefit under this chapter. 1056

(H) (1) "Total service credit," except as provided in 1057
section 145.37 of the Revised Code, means all service credited 1058
to a member of the retirement system since last becoming a 1059
member, including restored service credit as provided by section 1060
145.31 of the Revised Code; credit purchased under sections 1061
145.293 and 145.299 of the Revised Code; all the member's 1062
military service credit computed as provided in this chapter; 1063
all service credit established pursuant to section 145.297 of 1064
the Revised Code; and any other service credited under this 1065
chapter. For the exclusive purpose of satisfying the service 1066
credit requirement and of determining eligibility for benefits 1067
under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, 1068
and 145.361 of the Revised Code, "five or more years of total 1069
service credit" means sixty or more calendar months of 1070
contributing service in this system. 1071

(2) "One and one-half years of contributing service 1072

credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such employee members, a corresponding payment shall be paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.

(I) "Regular interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time.

(J) "Accumulated contributions" means the sum of all 1103
amounts credited to a contributor's individual account in the 1104
employees' savings fund together with any interest credited to 1105
the contributor's account under section 145.471 or 145.472 of 1106
the Revised Code. 1107

(K) (1) "Final average salary" means the greater of the 1108
following: 1109

(a) The sum of the member's earnable salaries for the 1110
appropriate number of calendar years of contributing service, 1111
determined under section 145.017 of the Revised Code, in which 1112
the member's earnable salary was highest, divided by the same 1113
number of calendar years or, if the member has fewer than the 1114
appropriate number of calendar years of contributing service, 1115
the total of the member's earnable salary for all years of 1116
contributing service divided by the number of calendar years of 1117
the member's contributing service; 1118

(b) The sum of a member's earnable salaries for the 1119
appropriate number of consecutive months, determined under 1120
section 145.017 of the Revised Code, that were the member's last 1121
months of service, up to and including the last month, divided 1122
by the appropriate number of years or, if the time between the 1123
first and final months of service is less than the appropriate 1124
number of consecutive months, the total of the member's earnable 1125
salary for all months of contributing service divided by the 1126
number of years between the first and final months of 1127
contributing service, including any fraction of a year, except 1128
that the member's final average salary shall not exceed the 1129
member's highest earnable salary for any twelve consecutive 1130
months. 1131

(2) If contributions were made in only one calendar year, 1132

"final average salary" means the member's total earnable salary.	1133
(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.	1134 1135 1136 1137
(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.	1138 1139 1140 1141 1142
(N) (1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.	1143 1144
(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.	1145 1146
(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.	1147 1148 1149 1150 1151
(4) "Disability benefit recipient" means a member who is receiving a disability benefit.	1152 1153
(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.332, 145.37, and 145.46 and former section 145.34 of the Revised Code.	1154 1155 1156
(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the	1157 1158 1159 1160

annuity and pension reserve fund as provided in this chapter. 1161
All pensions shall be paid in twelve equal monthly installments. 1162

(Q) "Retirement allowance" means the pension plus that 1163
portion of the benefit derived from contributions made by the 1164
member. 1165

(R) (1) Except as otherwise provided in division (R) of 1166
this section, "earnable salary" means all salary, wages, and 1167
other earnings paid to a contributor by reason of employment in 1168
a position covered by the retirement system. The salary, wages, 1169
and other earnings shall be determined prior to determination of 1170
the amount required to be contributed to the employees' savings 1171
fund under section 145.47 of the Revised Code and without regard 1172
to whether any of the salary, wages, or other earnings are 1173
treated as deferred income for federal income tax purposes. 1174
"Earnable salary" includes the following: 1175

(a) Payments made by the employer in lieu of salary, 1176
wages, or other earnings for sick leave, personal leave, or 1177
vacation used by the contributor; 1178

(b) Payments made by the employer for the conversion of 1179
sick leave, personal leave, and vacation leave accrued, but not 1180
used if the payment is made during the year in which the leave 1181
is accrued, except that payments made pursuant to section 1182
124.383 or 124.386 of the Revised Code are not earnable salary; 1183

(c) Allowances paid by the employer for maintenance, 1184
consisting of housing, laundry, and meals, as certified to the 1185
retirement board by the employer or the head of the department 1186
that employs the contributor; 1187

(d) Fees and commissions paid under section 507.09 of the 1188
Revised Code; 1189

(e) Payments that are made under a disability leave	1190
program sponsored by the employer and for which the employer is	1191
required by section 145.296 of the Revised Code to make periodic	1192
employer and employee contributions;	1193
(f) Amounts included pursuant to former division (K) (3)	1194
and former division (Y) of this section and section 145.2916 of	1195
the Revised Code.	1196
(2) "Earnable salary" does not include any of the	1197
following:	1198
(a) Fees and commissions, other than those paid under	1199
section 507.09 of the Revised Code, paid as sole compensation	1200
for personal services and fees and commissions for special	1201
services over and above services for which the contributor	1202
receives a salary;	1203
(b) Amounts paid by the employer to provide life	1204
insurance, sickness, accident, endowment, health, medical,	1205
hospital, dental, or surgical coverage, or other insurance for	1206
the contributor or the contributor's family, or amounts paid by	1207
the employer to the contributor in lieu of providing the	1208
insurance;	1209
(c) Incidental benefits, including lodging, food, laundry,	1210
parking, or services furnished by the employer, or use of the	1211
employer's property or equipment, or amounts paid by the	1212
employer to the contributor in lieu of providing the incidental	1213
benefits;	1214
(d) Reimbursement for job-related expenses authorized by	1215
the employer, including moving and travel expenses and expenses	1216
related to professional development;	1217
(e) Payments for accrued but unused sick leave, personal	1218

leave, or vacation that are made at any time other than in the 1219
year in which the sick leave, personal leave, or vacation was 1220
accrued; 1221

(f) Payments made to or on behalf of a contributor that 1222
are in excess of the annual compensation that may be taken into 1223
account by the retirement system under division (a) (17) of 1224
section 401 of the "Internal Revenue Code of 1986," 100 Stat. 1225
2085, 26 U.S.C.A. 401(a) (17), as amended; 1226

(g) Payments made under division (B), (C), or (E) of 1227
section 5923.05 of the Revised Code, Section 4 of Substitute 1228
Senate Bill No. 3 of the 119th general assembly, Section 3 of 1229
Amended Substitute Senate Bill No. 164 of the 124th general 1230
assembly, or Amended Substitute House Bill No. 405 of the 124th 1231
general assembly; 1232

(h) Anything of value received by the contributor that is 1233
based on or attributable to retirement or an agreement to 1234
retire, except that payments made on or before January 1, 1989, 1235
that are based on or attributable to an agreement to retire 1236
shall be included in earnable salary if both of the following 1237
apply: 1238

(i) The payments are made in accordance with contract 1239
provisions that were in effect prior to January 1, 1986; 1240

(ii) The employer pays the retirement system an amount 1241
specified by the retirement board equal to the additional 1242
liability resulting from the payments. 1243

(i) The portion of any amount included in section 145.2916 1244
of the Revised Code that represents employer contributions. 1245

(3) The retirement board shall determine by rule whether 1246
any compensation not enumerated in division (R) of this section 1247

is earnable salary, and its decision shall be final. 1248

(S) "Pension reserve" means the present value, computed 1249
upon the basis of the mortality and other tables adopted by the 1250
board, of all payments to be made on account of any retirement 1251
allowance or benefit in lieu of any retirement allowance, 1252
granted to a member or beneficiary under this chapter. 1253

(T) "Contributing service" means both of the following: 1254

(1) All service credited to a member of the system since 1255
January 1, 1935, for which contributions are made as required by 1256
sections 145.47, 145.48, and 145.483 of the Revised Code. In any 1257
year subsequent to 1934, credit for any service shall be allowed 1258
in accordance with section 145.016 of the Revised Code. 1259

(2) Service credit received by election of the member 1260
under section 145.814 of the Revised Code. 1261

(U) "State retirement board" means the public employees 1262
retirement board, the school employees retirement board, or the 1263
state teachers retirement board. 1264

(V) "Retirant" means any former member who retires and is 1265
receiving a monthly allowance as provided in sections 145.32, 1266
145.33, 145.331, 145.332, and 145.46 and former section 145.34 1267
of the Revised Code. 1268

(W) "Employer contribution" means the amount paid by an 1269
employer as determined under section 145.48 of the Revised Code. 1270

(X) "Public service terminates" means the last day for 1271
which a public employee is compensated for services performed 1272
for an employer or the date of the employee's death, whichever 1273
occurs first. 1274

(Y) "Five years of service credit," for the exclusive 1275

purpose of satisfying the service credit requirements and of 1276
determining eligibility under section 145.33 or 145.332 of the 1277
Revised Code, means employment covered under this chapter or 1278
under a former retirement plan operated, recognized, or endorsed 1279
by the employer prior to coverage under this chapter or under a 1280
combination of the coverage. 1281

(Z) "Deputy sheriff" means any person who is commissioned 1282
and employed as a full-time peace officer by the sheriff of any 1283
county, and has been so employed since on or before December 31, 1284
1965; any person who is or has been commissioned and employed as 1285
a peace officer by the sheriff of any county since January 1, 1286
1966, and who has received a certificate attesting to the 1287
person's satisfactory completion of the peace officer training 1288
school as required by section 109.77 of the Revised Code; or any 1289
person deputized by the sheriff of any county and employed 1290
pursuant to section 2301.12 of the Revised Code as a criminal 1291
bailiff or court constable who has received a certificate 1292
attesting to the person's satisfactory completion of the peace 1293
officer training school as required by section 109.77 of the 1294
Revised Code. 1295

(AA) "Township constable or police officer in a township 1296
police department or district" means any person who is 1297
commissioned and employed as a full-time peace officer pursuant 1298
to Chapter 505. or 509. of the Revised Code, who has received a 1299
certificate attesting to the person's satisfactory completion of 1300
the peace officer training school as required by section 109.77 1301
of the Revised Code. 1302

(BB) "Drug agent" means any person who is either of the 1303
following: 1304

(1) Employed full time as a narcotics agent by a county 1305

narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(CC) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(DD) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(EE) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(GG) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(JJ) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(KK) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(LL) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

(MM) "Veterans' home police officer" means any person who is employed at a veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(NN) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(OO) "Special police officer for an institution for ~~the~~ 1364
~~developmentally disabled~~persons with a developmental disability" 1365
means any person who is designated as such pursuant to section 1366
5123.13 of the Revised Code and is in compliance with section 1367
109.77 of the Revised Code. 1368

(PP) "State university law enforcement officer" means any 1369
person who is employed full time as a state university law 1370
enforcement officer pursuant to section 3345.04 of the Revised 1371
Code and who is in compliance with section 109.77 of the Revised 1372
Code. 1373

(QQ) "House sergeant at arms" means any person appointed 1374
by the speaker of the house of representatives under division 1375
(B) (1) of section 101.311 of the Revised Code who has arrest 1376
authority under division (E) (1) of that section. 1377

(RR) "Assistant house sergeant at arms" means any person 1378
appointed by the house sergeant at arms under division (C) (1) of 1379
section 101.311 of the Revised Code. 1380

(SS) "Regional transit authority police officer" means a 1381
person who is employed full time as a regional transit authority 1382
police officer under division (Y) of section 306.35 of the 1383
Revised Code and is in compliance with section 109.77 of the 1384
Revised Code. 1385

(TT) "State highway patrol police officer" means a special 1386
police officer employed full time and designated by the 1387
superintendent of the state highway patrol pursuant to section 1388
5503.09 of the Revised Code or a person serving full time as a 1389
special police officer pursuant to that section on a permanent 1390
basis on October 21, 1997, who is in compliance with section 1391
109.77 of the Revised Code. 1392

(UU) "Municipal public safety director" means a person who 1393
serves full time as the public safety director of a municipal 1394
corporation with the duty of directing the activities of the 1395
municipal corporation's police department and fire department. 1396

(VV) Notwithstanding section 2901.01 of the Revised Code, 1397
"PERS law enforcement officer" means a sheriff or any of the 1398
following whose primary duties are to preserve the peace, 1399
protect life and property, and enforce the laws of this state: a 1400
deputy sheriff, township constable or police officer in a 1401
township police department or district, drug agent, department 1402
of public safety enforcement agent, natural resources law 1403
enforcement staff officer, park officer, forest officer, 1404
preserve officer, wildlife officer, state watercraft officer, 1405
park district police officer, conservancy district officer, 1406
veterans' home police officer, special police officer for a 1407
mental health institution, special police officer for an 1408
institution for ~~the developmentally disabled~~ persons with a 1409
developmental disability, state university law enforcement 1410
officer, municipal police officer, house sergeant at arms, 1411
assistant house sergeant at arms, regional transit authority 1412
police officer, or state highway patrol police officer. "PERS 1413
law enforcement officer" also includes a person serving as a 1414
municipal public safety director at any time during the period 1415
from September 29, 2005, to March 24, 2009, if the duties of 1416
that service were to preserve the peace, protect life and 1417
property, and enforce the laws of this state. 1418

(WW) "Hamilton county municipal court bailiff" means a 1419
person appointed by the clerk of courts of the Hamilton county 1420
municipal court under division (A)(3) of section 1901.32 of the 1421
Revised Code who is employed full time as a bailiff or deputy 1422
bailiff, who has received a certificate attesting to the 1423

person's satisfactory completion of the peace officer basic 1424
training described in division (D) (1) of section 109.77 of the 1425
Revised Code. 1426

(XX) "PERS public safety officer" means a Hamilton county 1427
municipal court bailiff, or any of the following whose primary 1428
duties are other than to preserve the peace, protect life and 1429
property, and enforce the laws of this state: a deputy sheriff, 1430
township constable or police officer in a township police 1431
department or district, drug agent, department of public safety 1432
enforcement agent, natural resources law enforcement staff 1433
officer, park officer, forest officer, preserve officer, 1434
wildlife officer, state watercraft officer, park district police 1435
officer, conservancy district officer, veterans' home police 1436
officer, special police officer for a mental health institution, 1437
special police officer for an institution for ~~the~~ 1438
~~developmentally disabled~~persons with a developmental disability, 1439
state university law enforcement officer, municipal police 1440
officer, house sergeant at arms, assistant house sergeant at 1441
arms, regional transit authority police officer, or state 1442
highway patrol police officer. "PERS public safety officer" also 1443
includes a person serving as a municipal public safety director 1444
at any time during the period from September 29, 2005, to March 1445
24, 2009, if the duties of that service were other than to 1446
preserve the peace, protect life and property, and enforce the 1447
laws of this state. 1448

(YY) "Fiduciary" means a person who does any of the 1449
following: 1450

(1) Exercises any discretionary authority or control with 1451
respect to the management of the system or with respect to the 1452
management or disposition of its assets; 1453

(2) Renders investment advice for a fee, direct or 1454
indirect, with respect to money or property of the system; 1455

(3) Has any discretionary authority or responsibility in 1456
the administration of the system. 1457

(ZZ) "Actuary" means an individual who satisfies all of 1458
the following requirements: 1459

(1) Is a member of the American academy of actuaries; 1460

(2) Is an associate or fellow of the society of actuaries; 1461

(3) Has a minimum of five years' experience in providing 1462
actuarial services to public retirement plans. 1463

(AAA) "PERS defined benefit plan" means the plan described 1464
in sections 145.201 to 145.79 of the Revised Code. 1465

(BBB) "PERS defined contribution plans" means the plan or 1466
plans established under section 145.81 of the Revised Code. 1467

Sec. 145.012. (A) "Public employee," as defined in 1468
division (A) of section 145.01 of the Revised Code, does not 1469
include any person: 1470

(1) Who is employed by a private, temporary-help service 1471
and performs services under the direction of a public employer 1472
or is employed on a contractual basis as an independent 1473
contractor under a personal service contract with a public 1474
employer; 1475

(2) Who is an emergency employee serving on a temporary 1476
basis in case of fire, snow, earthquake, flood, or other similar 1477
emergency; 1478

(3) Who is employed in a program established pursuant to 1479
the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 1480

U.S.C.A. 1501;	1481
(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;	1482 1483 1484 1485
(5) Who is employed as an election worker and paid less than six hundred dollars per calendar year for that service;	1486 1487
(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:	1488 1489 1490 1491 1492
(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;	1493 1494 1495
(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;	1496 1497 1498 1499
(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.	1500 1501 1502
(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;	1503 1504 1505 1506 1507 1508

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;	1509 1510
(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;	1511 1512 1513
(10) Who is a member of the unemployment compensation advisory council;	1514 1515
(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;	1516 1517 1518
(12) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly and whose employment begins on or after October 1, 2012.	1519 1520 1521 1522 1523
(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of mental health and addiction services, no resident in an institution for the mentally retarded <u>intellectually disabled</u> operated by the department of developmental disabilities, no resident admitted as a patient of a veterans' home operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any	1524 1525 1526 1527 1528 1529 1530 1531 1532 1533 1534 1535 1536 1537

institution listed in this division, or the payment of any 1538
benefit for which such a person or such a person's beneficiaries 1539
otherwise would be eligible. 1540

Sec. 145.298. (A) As used in this section: 1541

(1) "State employing unit" means an employing unit 1542
described in division (A) (2) of section 145.297 of the Revised 1543
Code, except that it does not mean an employing unit with fifty 1544
or fewer employees. 1545

(2) "State institution" means a state correctional 1546
facility, a state institution for the mentally ill, or a state 1547
institution for the care, treatment, and training of the 1548
~~mentally retarded~~ intellectually disabled. 1549

(B) (1) Prior to July 17, 2009, in the event of a proposal 1550
to close a state institution or lay off, within a six-month 1551
period, a number of persons employed at an institution that 1552
equals or exceeds the lesser of fifty or ten per cent of the 1553
persons employed at the institution, the employing unit 1554
responsible for the institution's operation shall establish a 1555
retirement incentive plan for persons employed at the 1556
institution. 1557

(2) On and after July 17, 2009, in the event of a proposal 1558
to close a state institution or lay off, within a six-month 1559
period, a number of persons employed at an institution that 1560
equals or exceeds the lesser of three hundred fifty or forty per 1561
cent of the persons employed at the institution, the employing 1562
unit responsible for the institution's operation shall establish 1563
a retirement incentive plan for persons employed at the 1564
institution. 1565

(C) (1) Prior to July 17, 2009, in the event of a proposal, 1566

other than the proposals described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of fifty or ten per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(2) On and after July 17, 2009, in the event of a proposal, other than the proposals described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of three hundred fifty or forty per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(D)(1) A retirement incentive plan established under this section shall be consistent with the requirements of section 145.297 of the Revised Code, except that the plan shall go into effect at the time the layoffs or proposed closings are announced and shall remain in effect until the date of the layoffs or closings.

(2) If the employing unit already has a retirement incentive plan in effect, the plan shall remain in effect at least until the date of the layoffs or closings. The employing unit may revise the existing plan to provide greater benefits, but if it revises the plan, it shall give written notice of the changes to all employees who have elected to participate in the original plan, and it shall provide the greater benefits to all employees who participate in the plan, whether their elections to participate were made before or after the date of the revision.

Sec. 145.332. Eligibility of members of the public

employees retirement system, other than those subject to section 1597
145.32 of the Revised Code, for age and service retirement shall 1598
be determined under this section. 1599

(A) A member of the public employees retirement system is 1600
eligible for age and service retirement under this division if, 1601
not later than five years after ~~the effective date of this~~ 1602
~~section~~ January 7, 2013, the member meets one of the following 1603
requirements: 1604

(1) Has attained age forty-eight and has at least twenty- 1605
five years of total service credit as a PERS law enforcement 1606
officer; 1607

(2) Has attained age fifty-two and has at least twenty- 1608
five years of total service credit as a PERS public safety 1609
officer or has service as a PERS public safety officer and 1610
service as a PERS law enforcement officer that when combined 1611
equal at least twenty-five years of total service credit; 1612

(3) Has attained age sixty-two and has at least fifteen 1613
years of total service credit as a PERS law enforcement officer 1614
or PERS public safety officer. 1615

(B) (1) A member who would be eligible to retire not later 1616
than ten years after ~~the effective date of this amendment~~ 1617
January 7, 2013, if the requirements of section 145.33 of the 1618
Revised Code as they existed immediately prior to ~~the effective~~ 1619
~~date of this amendment~~ January 7, 2013, were still in effect is 1620
eligible to retire under this division if the member meets one 1621
of the following requirements: 1622

(a) Has attained age fifty and has at least twenty-five 1623
years of total service credit as a PERS law enforcement officer; 1624

(b) Has attained age fifty-four and has at least twenty- 1625

five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(c) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(2) A member who on ~~the effective date of this amendment~~ January 7, 2013, has twenty or more years of total service credit is eligible for age and service retirement under this division on meeting one of the requirements of division (B) (1) of this section, regardless of when the member meets the requirement unless, ~~between the effective date of this section~~ January 7, 2013, and the date the member meets the requirement, the member receives a refund of accumulated contributions under section 145.40 of the Revised Code.

(C) A member who is not eligible for age and service retirement under division (A) or (B) of this section is eligible under this division if the member meets one of the following requirements:

(1) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(2) Has attained age fifty-six and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(3) Has attained age sixty-four and has at least fifteen

years of total service credit as a PERS law enforcement officer 1655
or PERS public safety officer. 1656

(D) Service credit purchased or obtained under this 1657
chapter shall be used in determining whether a member has the 1658
number of years of total service credit required under division 1659
(A) or (B) of this section only if the member was a member on 1660
~~the effective date of this section~~ January 7, 2013, or obtains 1661
credit under section 145.483 of the Revised Code that would have 1662
made the member a member on that date and one of the following 1663
applies: 1664

(1) Except in the case of service credit that has been or 1665
will be purchased or obtained under section 145.295 or 145.37 of 1666
the Revised Code or is for service covered by the Cincinnati 1667
retirement system: 1668

(a) For division (A) of this section, the service credit 1669
purchase is completed or the service credit is obtained not 1670
later than five years after ~~the effective date of this section~~ 1671
January 7, 2013; 1672

(b) For division (B) of this section, the service credit 1673
purchase is completed or the service credit is obtained not 1674
later than ten years after ~~the effective date of this section~~ 1675
January 7, 2013. 1676

(2) In the case of service credit that has been or will be 1677
purchased or obtained under section 145.295 or 145.37 of the 1678
Revised Code or is for service covered by the Cincinnati 1679
retirement system: 1680

(a) For division (A) of this section, the service for 1681
which the credit has been or will be purchased or obtained 1682
occurs not later than five years after ~~the effective date of~~ 1683

~~this section January 7, 2013;~~ 1684

(b) For division (B) of this section, the service for 1685
which the credit has been or will be purchased or obtained 1686
occurs not later than ten years after ~~the effective date of this~~ 1687
~~section January 7, 2013.~~ 1688

(E) (1) A member with at least twenty-five years of total 1689
service credit who would be eligible to retire under division 1690
(B) (1) (a) of this section had the member attained age fifty and 1691
who voluntarily resigns or is discharged for any reason except 1692
death, dishonesty, cowardice, intemperate habits, or conviction 1693
of a felony, on or after attaining age forty-eight, but before 1694
attaining age fifty, may elect to receive a reduced benefit. The 1695
benefit shall be the actuarial equivalent of the allowance 1696
calculated under division (F) of this section adjusted for age. 1697

(2) A member with at least twenty-five years of total 1698
service credit who would be eligible to retire under division 1699
(C) (1) of this section had the member attained age fifty-two and 1700
who voluntarily resigns or is discharged for any reason except 1701
death, dishonesty, cowardice, intemperate habits, or conviction 1702
of a felony, on or after attaining age forty-eight, but before 1703
attaining age fifty-two, may elect to receive a reduced benefit. 1704
The benefit shall be the actuarial equivalent of the allowance 1705
calculated under division (F) of this section adjusted for age. 1706

(3) A member with at least twenty-five years of total 1707
service credit who would be eligible to retire under division 1708
(A) (2) of this section had the member attained age fifty-two and 1709
who voluntarily resigns or is discharged for any reason except 1710
death, dishonesty, cowardice, intemperate habits, or conviction 1711
of a felony, on or after attaining age forty-eight, but before 1712
attaining age fifty-two, may elect to receive a reduced benefit. 1713

(a) If eligibility to make the election under division (E) 1714
(3) of this section occurs not later than five years after ~~the~~ 1715
~~effective date of this section~~ January 7, 2013, the benefit 1716
shall be calculated in accordance with the following schedule: 1717

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	1719
	division (F) of this section	1720
49	80% of the benefit payable under	1721
	division (F) of this section	1722
50	86% of the benefit payable under	1723
	division (F) of this section	1724
51	93% of the benefit payable under	1725
	division (F) of this section	1726

(b) If eligibility to make the election occurs after the 1727
date determined under division (E) (3) (a) of this section, the 1728
benefit shall be the actuarial equivalent of the allowance 1729
calculated under division (F) of this section adjusted for age. 1730

(4) A member with at least twenty-five years of total 1731
service credit who would be eligible to retire under division 1732
(B) (1) (b) of this section had the member attained age fifty-four 1733
and who voluntarily resigns or is discharged for any reason 1734
except death, dishonesty, cowardice, intemperate habits, or 1735
conviction of a felony, on or after attaining age forty-eight, 1736
but before attaining age fifty-four, may elect to receive a 1737
reduced benefit. The benefit shall be the actuarial equivalent 1738
of the allowance calculated under division (F) of this section 1739
adjusted for age. 1740

(5) A member with at least twenty-five years of total 1741

service credit who would be eligible to retire under division 1742
(C) (2) of this section had the member attained age fifty-six and 1743
who voluntarily resigns or is discharged for any reason except 1744
death, dishonesty, cowardice, intemperate habits, or conviction 1745
of a felony, on or after attaining age fifty-two, but before 1746
attaining age fifty-six, may elect to receive a reduced benefit. 1747
The benefit shall be the actuarial equivalent of the allowance 1748
calculated under division (F) of this section adjusted for age. 1749

(6) If a member elects to receive a reduced benefit under 1750
division (E) (1), (2), (3), (4), or (5) of this section, the 1751
reduced benefit shall be based on the member's age on the 1752
member's most recent birthday. Once a member elects to receive a 1753
reduced benefit and has received a payment, the member may not 1754
change that election. 1755

(F) A benefit paid under division (A), (B), or (C) of this 1756
section shall consist of an annual single lifetime allowance 1757
equal to the sum of two and one-half per cent of the member's 1758
final average salary multiplied by the first twenty-five years 1759
of the member's total service credit plus two and one-tenth per 1760
cent of the member's final average salary multiplied by the 1761
number of years of the member's total service credit in excess 1762
of twenty-five years. 1763

(G) A member with at least fifteen years of total service 1764
credit as a PERS law enforcement officer or PERS public safety 1765
officer who voluntarily resigns or is discharged for any reason 1766
except death, dishonesty, cowardice, intemperate habits, or 1767
conviction of a felony may apply for an age and service 1768
retirement benefit, which shall consist of an annual single 1769
lifetime allowance equal to one and one-half per cent of the 1770
member's final average salary multiplied by the number of years 1771

of the member's total service credit. 1772

(1) If the member will attain age fifty-two not later than 1773
ten years after ~~the effective date of this section~~ January 7, 1774
2013, the retirement allowance shall commence on the first day 1775
of the calendar month following the month in which application 1776
is filed with the board on or after the member's attainment of 1777
age fifty-two. 1778

(2) If the member will not attain age fifty-two on or 1779
before the date determined under division (G) (1) of this 1780
section, the retirement allowance shall commence on the first 1781
day of the calendar month following the month in which 1782
application is filed with the board on or after the member's 1783
attainment of age fifty-six. 1784

(H) A benefit paid under this section shall not exceed the 1785
lesser of ninety per cent of the member's final average salary 1786
or the limit established by section 415 of the "Internal Revenue 1787
Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended. 1788

(I) A member with service credit as a PERS law enforcement 1789
officer or PERS public safety officer and other service credit 1790
under this chapter may elect one of the following: 1791

(1) To have all the member's service credit under this 1792
chapter, including credit for service as a PERS law enforcement 1793
officer or PERS public safety officer, used in calculating a 1794
retirement allowance under section 145.33 of the Revised Code if 1795
the member qualifies for an allowance under that section; 1796

(2) If the member qualifies for an allowance under 1797
division (A) (1), (B) (1), (C) (1), or (E) (1) or (2) of this 1798
section, to receive all of the following: 1799

(a) A benefit under division (A) (1), (B) (1), (C) (1), or 1800

(E) (1) or (2) of this section for the member's service credit as a PERS law enforcement officer; 1801
1802

(b) A single life annuity having a reserve equal to the amount of the member's accumulated contributions for all service other than PERS law enforcement service; 1803
1804
1805

(c) A pension equal to the annuity provided under division (I) (2) (b) of this section, excluding amounts of the member's accumulated contributions deposited under former division (Y) of section 145.01 or former sections 145.02, 145.29, 145.292, and 145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the Revised Code for the purchase of service credit. 1806
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(3) If the member qualifies for an allowance under division (A) (2), (B) (2), (C) (2), or (E) (3), (4), or (5) of this section, to receive all of the following: 1813
1814
1815

(a) A benefit under division (A) (2), (B) (2), (C) (2), or (E) (3), (4), or (5) of this section for the member's service credit as a PERS law enforcement officer or PERS public safety officer; 1816
1817
1818
1819

(b) A single life annuity having a reserve equal to the amount of the member's accumulated contributions for all service other than PERS law enforcement service or PERS public safety officer service; 1820
1821
1822
1823

(c) A pension equal to the annuity provided under division (I) (3) (b) of this section, excluding amounts of the member's accumulated contributions deposited under former division (Y) of section 145.01 or former sections 145.02, 145.29, 145.292, and 145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the 1824
1825
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Revised Code for the purchase of service credit. 1830

(J) For the purposes of this section, "total service 1831
credit" includes credit for military service to the extent 1832
permitted by division (K) of this section and credit for service 1833
as a police officer or state highway patrol trooper to the 1834
extent permitted by division (L) of this section. 1835

(K) Notwithstanding sections 145.01 and 145.30 of the 1836
Revised Code, not more than four years of military service 1837
credit granted or purchased under section 145.30 of the Revised 1838
Code and five years of military service credit purchased under 1839
section 145.301 or 145.302 of the Revised Code shall be used in 1840
calculating service as a PERS law enforcement officer or PERS 1841
public safety officer or the total service credit of that 1842
person. 1843

(L) (1) Only credit for the member's service as a PERS law 1844
enforcement officer, PERS public safety officer, or service 1845
credit obtained as a police officer or state highway patrol 1846
trooper shall be used in computing the benefit of a member who 1847
qualifies for a benefit under this section for the following: 1848

(a) Any person who originally is commissioned and employed 1849
as a deputy sheriff by the sheriff of any county, or who 1850
originally is elected sheriff, on or after January 1, 1975; 1851

(b) Any deputy sheriff who originally is employed as a 1852
criminal bailiff or court constable on or after April 16, 1993; 1853

(c) Any person who originally is appointed as a township 1854
constable or police officer in a township police department or 1855
district on or after January 1, 1981; 1856

(d) Any person who originally is employed as a county 1857
narcotics agent on or after September 26, 1984; 1858

- (e) Any person who originally is employed as an undercover 1859
drug agent as defined in section 109.79 of the Revised Code, 1860
department of public safety enforcement agent who prior to June 1861
30, 1999, was a liquor control investigator, park officer, 1862
forest officer, wildlife officer, state watercraft officer, park 1863
district police officer, conservancy district officer, veterans' 1864
home police officer, special police officer for a mental health 1865
institution, special police officer for an institution for ~~the~~ 1866
~~developmentally disabled~~persons with developmental disabilities, 1867
or municipal police officer on or after December 15, 1988; 1868
- (f) Any person who originally is employed as a state 1869
university law enforcement officer on or after November 6, 1996; 1870
- (g) Any person who is originally employed as a state 1871
university law enforcement officer by the university of Akron on 1872
or after September 16, 1998; 1873
- (h) Any person who originally is employed as a preserve 1874
officer on or after March 18, 1999; 1875
- (i) Any person who originally is employed as a natural 1876
resources law enforcement staff officer on or after March 18, 1877
1999; 1878
- (j) Any person who is originally employed as a department 1879
of public safety enforcement agent on or after June 30, 1999; 1880
- (k) Any person who is originally employed as a house 1881
sergeant at arms or assistant house sergeant at arms on or after 1882
September 5, 2001; 1883
- (l) Any person who is originally appointed as a regional 1884
transit authority police officer or state highway patrol police 1885
officer on or after February 1, 2002; 1886

(m) Any person who is originally employed as a municipal public safety director on or after September 29, 2005, but not later than March 24, 2009. 1887
1888
1889

(2) Only credit for a member's service as a PERS public safety officer or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B) (1) (b) or (c), (B) (2), (C) (1) (b) or (c), or (C) (2) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996. 1890
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(M) For purposes of this section, service prior to June 30, 1999, as a food stamp trafficking agent under former section 5502.14 of the Revised Code shall be considered service as a law enforcement officer. 1898
1899
1900
1901

(N) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code. 1902
1903

(O) A member seeking to retire under this section shall file an application with the public employees retirement board. 1904
1905

Service retirement shall be effective as provided in division (E) of section 145.32 of the Revised Code. 1906
1907

(P) If fewer than one per cent of the retirement system's members are contributing as public safety officers, the board, pursuant to a rule it adopts, may treat service as a public safety officer as service as a law enforcement officer. 1908
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Sec. 149.431. (A) Except as provided in sections 9.833 and 2744.081 of the Revised Code, any governmental entity or agency and any nonprofit corporation or association, except a corporation organized pursuant to Chapter 1719. of the Revised 1912
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1914
1915

Code prior to January 1, 1980 or organized pursuant to Chapter 1916
3941. of the Revised Code, that enters into a contract or other 1917
agreement with the federal government, a unit of state 1918
government, or a political subdivision or taxing unit of this 1919
state for the provision of services shall keep accurate and 1920
complete financial records of any moneys expended in relation to 1921
the performance of the services pursuant to such contract or 1922
agreement according to generally accepted accounting principles. 1923
Such contract or agreement and such financial records shall be 1924
deemed to be public records as defined in division (A)(1) of 1925
section 149.43 of the Revised Code and are subject to the 1926
requirements of division (B) of that section, except that: 1927

(1) Any information directly or indirectly identifying a 1928
present or former individual patient or client or such an 1929
individual patient's or client's diagnosis, prognosis, or 1930
medical treatment, treatment for a mental or emotional disorder, 1931
treatment for ~~mental retardation~~ an intellectual disability or a 1932
developmental disability, treatment for drug abuse or 1933
alcoholism, or counseling for personal or social problems is not 1934
a public record; 1935

(2) If disclosure of the contract or agreement or 1936
financial records is requested at a time when confidential 1937
professional services are being provided to a patient or client 1938
whose confidentiality might be violated if disclosure were made 1939
at that time, disclosure may be deferred if reasonable times are 1940
established when the contract or agreement or financial records 1941
will be disclosed. 1942

(3) Any nonprofit corporation or association that receives 1943
both public and private funds in fulfillment of any such 1944
contract or other agreement is not required to keep as public 1945

records the financial records of any private funds expended in 1946
relation to the performance of services pursuant to the contract 1947
or agreement. 1948

(B) Any nonprofit corporation or association that receives 1949
more than fifty per cent of its gross receipts excluding moneys 1950
received pursuant to Title XVIII of the "Social Security Act," 1951
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in a calendar 1952
year in fulfillment of a contract or other agreement for 1953
services with a governmental entity shall maintain information 1954
setting forth the compensation of any individual serving the 1955
nonprofit corporation or association in an executive or 1956
administrative capacity. Such information shall be deemed to be 1957
public records as defined in division (A)(1) of section 149.43 1958
of the Revised Code and is subject to the requirements of 1959
division (B) of that section. 1960

Nothing in this section shall be construed to otherwise 1961
limit the provisions of section 149.43 of the Revised Code. 1962

Sec. 152.04. The Ohio building authority may purchase, 1963
construct, reconstruct, equip, furnish, improve, alter, enlarge, 1964
maintain, repair, and operate buildings, facilities, and other 1965
properties on one or more sites within the state for use and 1966
occupancy by persons who meet all the following conditions: 1967

(A) Are eligible to receive old age, survivors', or 1968
disability insurance payments under Title II of the "Social 1969
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 401, or under any 1970
laws which may hereafter amend or supersede such chapters or 1971
title; 1972

(B) Have been, after September 27, 1963, discharged by the 1973
head of a hospital pursuant to section 5122.21 of the Revised 1974

Code or by the head of an institution pursuant to section	1975
5123.79 of the Revised Code;	1976
(C) Are determined by the authority not to need the care	1977
and treatment provided in a hospital or other institution;	1978
(D) Are determined by the authority to be unable, as a	1979
result of mental illness, mental retardation <u>intellectual</u>	1980
<u>disability</u> , or developmental disability, to provide complete	1981
care for themselves or obtain and hold employment sufficient to	1982
provide the costs of living.	1983
The authority may also provide living facilities for	1984
administrative, professional, and other personnel and their	1985
families necessary to maintain or operate the facilities and to	1986
carry out the purposes of the authority.	1987
Sec. 152.09. (A) As used in sections 152.06 and 152.09 to	1988
152.33 of the Revised Code:	1989
(1) "Obligations" means bonds, notes, or other evidences	1990
of obligation, including interest coupons pertaining thereto,	1991
issued pursuant to sections 152.09 to 152.33 of the Revised	1992
Code.	1993
(2) "State agencies" means the state of Ohio and branches,	1994
officers, boards, commissions, authorities, departments,	1995
divisions, courts, general assembly, or other units or agencies	1996
of the state. "State agency" also includes counties, municipal	1997
corporations, and governmental entities of this state that enter	1998
into leases with the Ohio building authority pursuant to section	1999
152.31 of the Revised Code or that are designated by law as	2000
state agencies for the purpose of performing a state function	2001
that is to be housed by a capital facility for which the Ohio	2002
building authority is authorized to issue revenue obligations	2003

pursuant to sections 152.09 to 152.33 of the Revised Code. 2004

(3) "Bond service charges" means principal, including 2005
mandatory sinking fund requirements for retirement of 2006
obligations, and interest, and redemption premium, if any, 2007
required to be paid by the Ohio building authority on 2008
obligations. 2009

(4) "Capital facilities" means buildings, structures, and 2010
other improvements, and equipment, real estate, and interests in 2011
real estate therefor, within the state, and any one, part of, or 2012
combination of the foregoing, for housing of branches and 2013
agencies of state government, including capital facilities for 2014
the purpose of housing personnel, equipment, or functions, or 2015
any combination thereof that the state agencies are responsible 2016
for housing, for which the Ohio building authority is authorized 2017
to issue obligations pursuant to Chapter 152. of the Revised 2018
Code, and includes storage and parking facilities related to 2019
such capital facilities. For purposes of sections 152.10 to 2020
152.15 of the Revised Code, "capital facilities" includes 2021
community or technical college capital facilities. 2022

(5) "Cost of capital facilities" means the costs of 2023
assessing, planning, acquiring, constructing, reconstructing, 2024
rehabilitating, remodeling, renovating, enlarging, improving, 2025
altering, maintaining, equipping, furnishing, repairing, 2026
painting, decorating, managing, or operating capital facilities, 2027
and the financing thereof, including the cost of clearance and 2028
preparation of the site and of any land to be used in connection 2029
with capital facilities, the cost of participating in capital 2030
facilities pursuant to section 152.33 of the Revised Code, the 2031
cost of any indemnity and surety bonds and premiums on 2032
insurance, all related direct administrative expenses and 2033

allocable portions of direct costs of the authority and lessee 2034
state agencies, cost of engineering and architectural services, 2035
designs, plans, specifications, surveys, and estimates of cost, 2036
legal fees, fees and expenses of trustees, depositories, and 2037
paying agents for the obligations, cost of issuance of the 2038
obligations and financing charges and fees and expenses of 2039
financial advisers and consultants in connection therewith, 2040
interest on obligations from the date thereof to the time when 2041
interest is to be covered from sources other than proceeds of 2042
obligations, amounts that represent the portion of investment 2043
earnings to be rebated or to be paid to the federal government 2044
in order to maintain the exclusion from gross income for federal 2045
income tax purposes of interest on those obligations pursuant to 2046
section 148(f) of the Internal Revenue Code, amounts necessary 2047
to establish reserves as required by the resolutions or the 2048
obligations, trust agreements, or indentures, costs of audits, 2049
the reimbursement of all moneys advanced or applied by or 2050
borrowed from any governmental entity, whether to or by the 2051
authority or others, from whatever source provided, for the 2052
payment of any item or items of cost of the capital facilities, 2053
any share of the cost undertaken by the authority pursuant to 2054
arrangements made with governmental entities under division (J) 2055
of section 152.21 of the Revised Code, and all other expenses 2056
necessary or incident to assessing, planning, or determining the 2057
feasibility or practicability with respect to capital 2058
facilities, and such other expenses as may be necessary or 2059
incident to the assessment, planning, acquisition, construction, 2060
reconstruction, rehabilitation, remodeling, renovation, 2061
enlargement, improvement, alteration, maintenance, equipment, 2062
furnishing, repair, painting, decoration, management, or 2063
operation of capital facilities, the financing thereof and the 2064
placing of the same in use and operation, including any one, 2065

part of, or combination of such classes of costs and expenses. 2066

(6) "Governmental entity" means any state agency, 2067
municipal corporation, county, township, school district, and 2068
any other political subdivision or special district in this 2069
state established pursuant to law, and, except where otherwise 2070
indicated, also means the United States or any of the states or 2071
any department, division, or agency thereof, and any agency, 2072
commission, or authority established pursuant to an interstate 2073
compact or agreement. 2074

(7) "Governing body" means: 2075

(a) In the case of a county, the board of county 2076
commissioners or other legislative authority; in the case of a 2077
municipal corporation, the legislative authority; in the case of 2078
a township, the board of township trustees; in the case of a 2079
school district, the board of education; 2080

(b) In the case of any other governmental entity, the 2081
officer, board, commission, authority, or other body having the 2082
general management of the entity or having jurisdiction or 2083
authority in the particular circumstances. 2084

(8) "Available receipts" means fees, charges, revenues, 2085
grants, subsidies, income from the investment of moneys, 2086
proceeds from the sale of goods or services, and all other 2087
revenues or receipts received by or on behalf of any state 2088
agency for which capital facilities are financed with 2089
obligations issued under Chapter 152. of the Revised Code, any 2090
state agency participating in capital facilities pursuant to 2091
section 152.33 of the Revised Code, or any state agency by which 2092
the capital facilities are constructed or financed; revenues or 2093
receipts derived by the authority from the operation, leasing, 2094

or other disposition of capital facilities, and the proceeds of 2095
obligations issued under Chapter 152. of the Revised Code; and 2096
also any moneys appropriated by a governmental entity, gifts, 2097
grants, donations, and pledges, and receipts therefrom, 2098
available for the payment of bond service charges on such 2099
obligations. 2100

(9) "Available community or technical college receipts" 2101
means all money received by a community or technical college or 2102
community or technical college district, including income, 2103
revenues, and receipts from the operation, ownership, or control 2104
of facilities, grants, gifts, donations, and pledges and 2105
receipts therefrom, receipts from fees and charges, the 2106
allocated state share of instruction as defined in section 2107
3333.59 of the Revised Code, and the proceeds of the sale of 2108
obligations, including proceeds of obligations issued to refund 2109
obligations previously issued, but excluding any special fee, 2110
and receipts therefrom, charged pursuant to division (D) of 2111
section 154.21 of the Revised Code. 2112

(10) "Community or technical college," "college," 2113
"community or technical college district," and "district" have 2114
the same meanings as in section 3333.59 of the Revised Code. 2115

(11) "Community or technical college capital facilities" 2116
means auxiliary facilities, education facilities, and housing 2117
and dining facilities, as those terms are defined in section 2118
3345.12 of the Revised Code, to the extent permitted to be 2119
financed by the issuance of obligations under division (A) (2) of 2120
section 3357.112 of the Revised Code, that are authorized by 2121
sections 3354.121, 3357.112, and 3358.10 of the Revised Code to 2122
be financed by obligations issued by a community or technical 2123
college district, and for which the Ohio building authority is 2124

authorized to issue obligations pursuant to Chapter 152. of the 2125
Revised Code, and includes any one, part of, or any combination 2126
of the foregoing, and further includes site improvements, 2127
utilities, machinery, furnishings, and any separate or connected 2128
buildings, structures, improvements, sites, open space and green 2129
space areas, utilities, or equipment to be used in, or in 2130
connection with the operation or maintenance of, or 2131
supplementing or otherwise related to the services or facilities 2132
to be provided by, such facilities. 2133

(12) "Cost of community or technical college capital 2134
facilities" means the costs of acquiring, constructing, 2135
reconstructing, rehabilitating, remodeling, renovating, 2136
enlarging, improving, equipping, or furnishing community or 2137
technical college capital facilities, and the financing thereof, 2138
including the cost of clearance and preparation of the site and 2139
of any land to be used in connection with community or technical 2140
college capital facilities, the cost of any indemnity and surety 2141
bonds and premiums on insurance, all related direct 2142
administrative expenses and allocable portions of direct costs 2143
of the authority, community or technical college or community or 2144
technical college district, cost of engineering, architectural 2145
services, design, plans, specifications and surveys, estimates 2146
of cost, legal fees, fees and expenses of trustees, 2147
depositories, bond registrars, and paying agents for the 2148
obligations, cost of issuance of the obligations and financing 2149
costs and fees and expenses of financial advisers and 2150
consultants in connection therewith, interest on the obligations 2151
from the date thereof to the time when interest is to be covered 2152
by available receipts or other sources other than proceeds of 2153
the obligations, amounts that represent the portion of 2154
investment earnings to be rebated or to be paid to the federal 2155

government in order to maintain the exclusion from gross income 2156
for federal income tax purposes of interest on those obligations 2157
pursuant to section 148(f) of the Internal Revenue Code, amounts 2158
necessary to establish reserves as required by the bond 2159
proceedings, costs of audits, the reimbursements of all moneys 2160
advanced or applied by or borrowed from the community or 2161
technical college, community or technical college district, or 2162
others, from whatever source provided, including any temporary 2163
advances from state appropriations, for the payment of any item 2164
or items of cost of community or technical college facilities, 2165
and all other expenses necessary or incident to planning or 2166
determining feasibility or practicability with respect to such 2167
facilities, and such other expenses as may be necessary or 2168
incident to the acquisition, construction, reconstruction, 2169
rehabilitation, remodeling, renovation, enlargement, 2170
improvement, equipment, and furnishing of community or technical 2171
college capital facilities, the financing thereof and the 2172
placing of them in use and operation, including any one, part 2173
of, or combination of such classes of costs and expenses. 2174

(B) Pursuant to the powers granted to the general assembly 2175
under Section 2i of Article VIII, Ohio Constitution, to 2176
authorize the issuance of revenue obligations and other 2177
obligations, the owners or holders of which are not given the 2178
right to have excises or taxes levied by the general assembly 2179
for the payment of principal thereof or interest thereon, the 2180
Ohio building authority may issue obligations, in accordance 2181
with Chapter 152. of the Revised Code, and shall cause the net 2182
proceeds thereof, after any deposits of accrued interest for the 2183
payment of bond service charges and after any deposit of all or 2184
such lesser portion as the authority may direct of the premium 2185
received upon the sale of those obligations for the payment of 2186

the bond service charges, to be applied to the costs of capital 2187
facilities designated by or pursuant to act of the general 2188
assembly for housing state agencies as authorized by Chapter 2189
152. of the Revised Code. The authority shall provide by 2190
resolution for the issuance of such obligations. The bond 2191
service charges and all other payments required to be made by 2192
the trust agreement or indenture securing such obligations shall 2193
be payable solely from available receipts of the authority 2194
pledged thereto as provided in such resolution. The available 2195
receipts pledged and thereafter received by the authority are 2196
immediately subject to the lien of such pledge without any 2197
physical delivery thereof or further act, and the lien of any 2198
such pledge is valid and binding against all parties having 2199
claims of any kind against the authority, irrespective of 2200
whether those parties have notice thereof, and creates a 2201
perfected security interest for all purposes of Chapter 1309. of 2202
the Revised Code and a perfected lien for purposes of any real 2203
property interest, all without the necessity for separation or 2204
delivery of funds or for the filing or recording of the 2205
resolution, trust agreement, indenture, or other agreement by 2206
which such pledge is created or any certificate, statement, or 2207
other document with respect thereto; and the pledge of such 2208
available receipts is effective and the money therefrom and 2209
thereof may be applied to the purposes for which pledged. Every 2210
pledge, and every covenant and agreement made with respect to 2211
the pledge, made in the resolution may therein be extended to 2212
the benefit of the owners and holders of obligations authorized 2213
by Chapter 152. of the Revised Code, the net proceeds of which 2214
are to be applied to the costs of capital facilities, and to any 2215
trustee therefor, for the further securing of the payment of the 2216
bond service charges, and all or any rights under any agreement 2217
or lease made under this section may be assigned for such 2218

purpose. Obligations may be issued at one time or from time to 2219
time, and each issue shall be dated, shall mature at such time 2220
or times as determined by the authority not exceeding forty 2221
years from the date of issue, and may be redeemable before 2222
maturity at the option of the authority at such price or prices 2223
and under such terms and conditions as are fixed by the 2224
authority prior to the issuance of the obligations. The 2225
authority shall determine the form of the obligations, fix their 2226
denominations, establish their interest rate or rates, which may 2227
be a variable rate or rates, or the maximum interest rate, and 2228
establish within or without this state a place or places of 2229
payment of bond service charges. 2230

(C) The obligations shall be signed by the authority 2231
chairperson, vice-chairperson, and secretary-treasurer, and the 2232
authority seal shall be affixed. The signatures may be facsimile 2233
signatures and the seal affixed may be a facsimile seal, as 2234
provided by resolution of the authority. Any coupons attached 2235
may bear the facsimile signature of the chairperson. In case any 2236
officer who has signed any obligations, or caused the officer's 2237
facsimile signature to be affixed thereto, ceases to be such 2238
officer before such obligations have been delivered, such 2239
obligations may, nevertheless, be issued and delivered as though 2240
the person who had signed the obligations or caused the person's 2241
facsimile signature to be affixed thereto had not ceased to be 2242
such officer. 2243

Any obligations may be executed on behalf of the authority 2244
by an officer who, on the date of execution, is the proper 2245
officer although on the date of such obligations such person was 2246
not the proper officer. 2247

(D) All obligations issued by the authority shall have all 2248

the qualities and incidents of negotiable instruments and may be 2249
issued in coupon or in registered form, or both, as the 2250
authority determines. Provision may be made for the registration 2251
of any obligations with coupons attached thereto as to principal 2252
alone or as to both principal and interest, their exchange for 2253
obligations so registered, and for the conversion or 2254
reconversion into obligations with coupons attached thereto of 2255
any obligations registered as to both principal and interest, 2256
and for reasonable charges for such registration, exchange, 2257
conversion, and reconversion. The authority may sell its 2258
obligations in any manner and for such prices as it determines, 2259
except that the authority shall sell obligations sold at public 2260
or private sale in accordance with section 152.091 of the 2261
Revised Code. 2262

(E) The obligations of the authority, principal, interest, 2263
and any proceeds from their sale or transfer, are exempt from 2264
all taxation within this state. 2265

(F) The authority is authorized to issue revenue 2266
obligations and other obligations under Section 2i of Article 2267
VIII, Ohio Constitution, for the purpose of paying the cost of 2268
capital facilities for housing of branches and agencies of state 2269
government, including capital facilities for the purpose of 2270
housing personnel, equipment, or functions, or any combination 2271
thereof that the state agencies are responsible for housing, as 2272
are authorized by Chapter 152. of the Revised Code, and that are 2273
authorized by the general assembly by the appropriation of lease 2274
payments or other moneys for such capital facilities or by any 2275
other act of the general assembly, but not including the 2276
appropriation of moneys for feasibility studies for such capital 2277
facilities. This division does not authorize the authority to 2278
issue obligations pursuant to Section 2i of Article VIII, Ohio 2279

Constitution, to pay the cost of capital facilities for mental 2280
hygiene and ~~retardation~~ intellectual disability, parks and 2281
recreation, or state-supported or state-assisted institutions of 2282
higher education. 2283

(G) The authority is authorized to issue revenue 2284
obligations under Section 2i of Article VIII, Ohio Constitution, 2285
on behalf of a community or technical college district and shall 2286
cause the net proceeds thereof, after any deposits of accrued 2287
interest for the payment of bond service charges and after any 2288
deposit of all or such lesser portion as the authority may 2289
direct of the premium received upon the sale of those 2290
obligations for the payment of the bond service charges, to be 2291
applied to the cost of community or technical college capital 2292
facilities, provided that the issuance of such obligations is 2293
subject to the execution of a written agreement in accordance 2294
with division (C) of section 3333.59 of the Revised Code for the 2295
withholding and depositing of funds otherwise due the district, 2296
or the college it operates, in respect of its allocated state 2297
share of instruction. 2298

The authority shall provide by resolution for the issuance 2299
of such obligations. The bond service charges and all other 2300
payments required to be made by the trust agreement or indenture 2301
securing the obligations shall be payable solely from available 2302
community or technical college receipts pledged thereto as 2303
provided in the resolution. The available community or technical 2304
college receipts pledged and thereafter received by the 2305
authority are immediately subject to the lien of such pledge 2306
without any physical delivery thereof or further act, and the 2307
lien of any such pledge is valid and binding against all parties 2308
having claims of any kind against the authority, irrespective of 2309
whether those parties have notice thereof, and creates a 2310

perfected security interest for all purposes of Chapter 1309. of 2311
the Revised Code and a perfected lien for purposes of any real 2312
property interest, all without the necessity for separation or 2313
delivery of funds or for the filing or recording of the 2314
resolution, trust agreement, indenture, or other agreement by 2315
which such pledge is created or any certificate, statement, or 2316
other document with respect thereto; and the pledge of such 2317
available community or technical college receipts is effective 2318
and the money therefrom and thereof may be applied to the 2319
purposes for which pledged. Every pledge, and every covenant and 2320
agreement made with respect to the pledge, made in the 2321
resolution may therein be extended to the benefit of the owners 2322
and holders of obligations authorized by this division, and to 2323
any trustee therefor, for the further securing of the payment of 2324
the bond service charges, and all or any rights under any 2325
agreement or lease made under this section may be assigned for 2326
such purpose. Obligations may be issued at one time or from time 2327
to time, and each issue shall be dated, shall mature at such 2328
time or times as determined by the authority not exceeding forty 2329
years from the date of issue, and may be redeemable before 2330
maturity at the option of the authority at such price or prices 2331
and under such terms and conditions as are fixed by the 2332
authority prior to the issuance of the obligations. The 2333
authority shall determine the form of the obligations, fix their 2334
denominations, establish their interest rate or rates, which may 2335
be a variable rate or rates, or the maximum interest rate, and 2336
establish within or without this state a place or places of 2337
payment of bond service charges. 2338

Sec. 154.02. (A) Pursuant to the provisions of Chapter 2339
154. of the Revised Code, the issuing authority may issue 2340
obligations as from time to time authorized by or pursuant to 2341

act or resolution of the general assembly, consistent with such 2342
limitations thereon, subject to section 154.12 of the Revised 2343
Code, as the general assembly may thereby prescribe as to 2344
principal amount, bond service charges, or otherwise, and shall 2345
cause the proceeds thereof to be applied to those capital 2346
facilities designated by or pursuant to act of the general 2347
assembly for any of the following: 2348

(1) Mental hygiene and ~~retardation~~ intellectual 2349
disability, including housing for mental hygiene and ~~retardation~~ 2350
intellectually disabled patients under Section 16 of Article 2351
VIII, Ohio Constitution; 2352

(2) State supported and assisted institutions of higher 2353
education, including community or technical colleges; 2354

(3) Parks and recreation; 2355

(4) Ohio cultural facilities; 2356

(5) Ohio sports facilities; 2357

(6) Housing of branches and agencies of state government. 2358

(B) The authority provided by Chapter 154. of the Revised 2359
Code is in addition to any other authority provided by law for 2360
the same or similar purposes, except as may otherwise 2361
specifically be provided in Chapter 154. of the Revised Code. In 2362
case any section or provision of Chapter 154. of the Revised 2363
Code or in case any covenant, stipulation, obligation, 2364
resolution, trust agreement, indenture, lease agreement, act, or 2365
action, or part thereof, made, assumed, entered into, or taken 2366
under Chapter 154. of the Revised Code, or any application 2367
thereof, is for any reason held to be illegal or invalid, such 2368
illegality or invalidity shall not affect the remainder thereof 2369
or any other section or provision of Chapter 154. of the Revised 2370

Code or any other covenant, stipulation, obligation, resolution, 2371
trust agreement, indenture, lease, agreement, act, or action, or 2372
part thereof, made, assumed, entered into, or taken under such 2373
chapter, which shall be construed and enforced as if such 2374
illegal or invalid portion were not contained therein, nor shall 2375
such illegality or invalidity or any application thereof affect 2376
any legal and valid application thereof, and each such section, 2377
provision, covenant, stipulation, obligation, resolution, trust 2378
agreement, indenture, lease, agreement, act, or action, or part 2379
thereof, shall be deemed to be effective, operative, made, 2380
entered into or taken in the manner and to the full extent 2381
permitted by law. 2382

Sec. 154.07. For the respective purposes provided in 2383
sections 154.20, 154.21, 154.22, 154.23, 154.24, and 154.25 of 2384
the Revised Code, the issuing authority may issue obligations of 2385
the state of Ohio as provided in Chapter 154. of the Revised 2386
Code, provided that the holders or owners of obligations shall 2387
have no right to have excises or taxes levied by the general 2388
assembly for the payment of the bond service charges. The right 2389
of holders and owners to payment of bond service charges shall 2390
be limited to the revenues or receipts and funds pledged thereto 2391
in accordance with Chapter 154. of the Revised Code, and each 2392
obligation shall bear on its face a statement to that effect. 2393
Chapter 154. of the Revised Code does not permit, and no 2394
provision of that chapter shall be applied to authorize or 2395
grant, a pledge of charges for the treatment or care of mental 2396
hygiene and ~~retardation~~ intellectually disabled patients to bond 2397
service charges on obligations other than those issued for 2398
capital facilities for mental hygiene and ~~retardation~~ 2399
intellectual disability, or a pledge of any receipts of or on 2400
behalf of state supported or state assisted institutions of 2401

higher education to bond service charges on obligations other 2402
than those issued for capital facilities for state supported or 2403
state assisted institutions of higher education, or a pledge of 2404
receipts with respect to parks and recreation to bond service 2405
charges on obligations other than those issued for capital 2406
facilities for parks and recreation, or a pledge of revenues or 2407
receipts received by or on behalf of any state agency to bond 2408
service charges on obligations other than those issued for 2409
capital facilities which are in whole or in part useful to, 2410
constructed by, or financed by the state agency that receives 2411
the revenues or receipts so pledged. 2412

Sec. 154.20. (A) Subject to authorization by the general 2413
assembly under section 154.02 of the Revised Code, the issuing 2414
authority may issue obligations pursuant to this chapter to pay 2415
costs of capital facilities for mental hygiene and ~~retardation-~~ 2416
intellectual disability, including housing for mental hygiene 2417
~~patients and retardation-~~, patients with intellectual 2418
disabilities, and persons with substance use disorders. 2419

(B) Any capital facilities for mental hygiene or 2420
~~retardation~~ intellectual disability, including housing for 2421
mental hygiene and ~~retardation~~ patients, patients with 2422
intellectual disabilities, and persons with substance use 2423
disorders, may be leased by the commission to the department of 2424
mental health and addiction services or the department of 2425
developmental disabilities, and other agreements may be made by 2426
the commission and any one or more of these departments with 2427
respect to the use or purchase of such capital facilities or, 2428
subject to the approval of the director of the department, the 2429
commission may lease such capital facilities to, and make or 2430
provide for other agreements with respect to the use or purchase 2431
thereof with, any governmental agency having authority under law 2432

to operate such capital facilities, and the director of the 2433
department may sublease such capital facilities to, and make 2434
other agreements with respect to the use or purchase thereof 2435
with, any such governmental agency, which may include provisions 2436
for transmittal to the mental health bond service trust fund 2437
created under division (E) of this section, by such governmental 2438
agency or by a nonprofit corporation providing mental hygiene 2439
and ~~retardation~~intellectual disability services for or under 2440
contract with or the supervision of that governmental agency, of 2441
receipts of that agency or nonprofit corporation from charges 2442
for the treatment or care of mental hygiene and ~~retardation~~intellectually disabled patients, all upon such terms and 2444
conditions as the parties may agree upon and pursuant to this 2445
chapter, notwithstanding any other provision of law affecting 2446
the leasing, acquisition, or disposition of capital facilities 2447
by the parties. 2448

(C) For purposes of this section, "available receipts" 2449
means all receipts of the state from charges for the treatment 2450
or care of mental hygiene and ~~retardation~~intellectually 2451
disabled patients, including support payments received under 2452
Chapter 5121. of the Revised Code and moneys required to be 2453
transmitted to the mental health bond service trust fund 2454
pursuant to subleases and other agreements between any of the 2455
departments and another governmental agency pursuant to division 2456
(B) of this section as the subleases and other agreements may be 2457
further implemented for internal planning, budgeting, and 2458
accounting purposes pursuant to rules adopted by the director of 2459
mental health and addiction services or director of 2460
developmental disabilities, any revenues or receipts derived by 2461
the commission from the operation, leasing, or other disposition 2462
of capital facilities financed under this section, the proceeds 2463

of obligations issued under this section and sections 154.11 and 2464
154.12 of the Revised Code, and also means any gifts, grants, 2465
donations, and pledges, and receipts therefrom, available for 2466
the payment of bond service charges on such obligations. The 2467
issuing authority may pledge all, or such portion as that 2468
authority determines, of the available receipts to the payment 2469
of bond service charges on obligations issued under this section 2470
and under sections 154.11 and 154.12 of the Revised Code and for 2471
the establishment and maintenance of any reserves, as provided 2472
in the bond proceedings, and make other provisions therein with 2473
respect to such available receipts as authorized by this 2474
chapter, which provisions shall be controlling notwithstanding 2475
any other provision of law pertaining thereto. 2476

(D) The issuing authority may covenant in the bond 2477
proceedings that the state and state agencies shall, so long as 2478
any obligations issued under this section are outstanding, cause 2479
to be charged and collected charges for the treatment or care of 2480
mental hygiene and ~~retardation~~ intellectually disabled patients 2481
sufficient in amount to provide for the payment of bond service 2482
charges on such obligations and for the establishment and 2483
maintenance of any reserves, as provided in the bond 2484
proceedings, and such covenants shall be controlling 2485
notwithstanding any other provision of law pertaining to such 2486
charges. 2487

(E) There is hereby created the mental health bond service 2488
trust fund, which shall be in the custody of the treasurer of 2489
state but shall be separate and apart from and not a part of the 2490
state treasury. All moneys received by or on account of the 2491
commission or issuing authority or state agencies and required 2492
by the applicable bond proceedings to be deposited, transferred, 2493
or credited to the fund, and all other moneys transferred or 2494

allocated to or received for the purposes of the fund, shall be 2495
deposited with the treasurer of state and credited to such fund, 2496
subject to applicable provisions of the bond proceedings, but 2497
without necessity for any act of appropriation. The mental 2498
health bond service trust fund is a trust fund and is hereby 2499
pledged to the payment of bond service charges on the 2500
obligations issued pursuant to this section and sections 154.11 2501
and 154.12 of the Revised Code to the extent provided in the 2502
applicable bond proceedings, and payment thereof from such fund 2503
shall be made or provided for by the treasurer of state in 2504
accordance with such bond proceedings without necessity for any 2505
act of appropriation. 2506

(F) There is hereby created in the state treasury the 2507
mental health facilities improvement fund. Subject to the bond 2508
proceedings therefor, all of the proceeds of the sale of 2509
obligations pursuant to this section shall be credited to the 2510
fund, except that any accrued interest shall be credited to the 2511
mental health bond service fund. The mental health facilities 2512
improvement fund may also be comprised of gifts, grants, 2513
appropriated moneys, and other sums and securities received to 2514
the credit of such fund. All investment earnings on the cash 2515
balance in the fund shall be credited to the fund. The fund 2516
shall be applied only to the following purposes: 2517

(1) Paying costs of capital facilities for mental hygiene 2518
and ~~retardation~~ intellectual disability, including housing for 2519
mental hygiene and ~~retardation~~ intellectually disabled patients 2520
or for persons with substance use disorders, under the 2521
jurisdiction of the department of mental health and addiction 2522
services or department of developmental disabilities; 2523

(2) Participating in capital facilities for mental hygiene 2524

and ~~retardation~~ intellectual disability, including housing for 2525
mental hygiene and ~~retardation~~ intellectually disabled patients 2526
or for persons with substance use disorders, with the federal 2527
government, municipal corporations, counties, or other 2528
governmental agencies, or a nonprofit corporation specifically 2529
chartered to provide a mental health, substance use, or ~~mental-~~ 2530
~~retardation~~ intellectual disability service when such service 2531
fulfills a public purpose, which participation may be by grants 2532
or contributions to them for such capital facilities. Except as 2533
provided in division (G) of this section, the nonprofit 2534
corporation may act in concert with a limited partnership or a 2535
limited liability company eligible to participate in the 2536
nonprofit set-aside described in section 42(h)(5) of the 2537
"Internal Revenue Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, 2538
and the Ohio housing finance agency's housing tax credit program 2539
for the purpose of making use of low-income housing tax credits 2540
in support of housing for mental hygiene and ~~retardation-~~ 2541
intellectually disabled patients. 2542

(G) A nonprofit corporation providing a ~~mental retardation-~~ 2543
an intellectual disability service must obtain written approval 2544
from the director of developmental disabilities before acting in 2545
concert with a limited partnership or limited liability company 2546
as described in division (F)(2) of this section. However, the 2547
director may issue one blanket approval for all such nonprofit 2548
corporations. 2549

(H) This section is to be applied with other applicable 2550
provisions of this chapter. 2551

Sec. 173.25. The office of the state long-term care 2552
ombudsman program shall, in carrying out the provisions and 2553
purposes of sections 173.14 to 173.26 of the Revised Code, 2554

advise, consult, and cooperate with any agency, program, or 2555
other entity related to the purposes of the office. Any agency, 2556
program, or other entity related to the purposes of the office 2557
shall advise, consult, and cooperate with the office. 2558

The office shall attempt to establish effective 2559
coordination with government-sponsored programs that provide 2560
legal services to the elderly and with protective and advocacy 2561
programs for individuals with developmental disabilities, ~~mental~~ 2562
~~retardation~~ intellectual disabilities, or mental illness. 2563

Sec. 173.27. (A) As used in this section: 2564

(1) "Applicant" means a person who is under final 2565
consideration for employment by a responsible party in a full- 2566
time, part-time, or temporary position that involves providing 2567
ombudsman services to residents and recipients. "Applicant" 2568
includes a person who is under final consideration for 2569
employment as the state long-term care ombudsman or the head of 2570
a regional long-term care ombudsman program. "Applicant" does 2571
not include a person seeking to provide ombudsman services to 2572
residents and recipients as a volunteer without receiving or 2573
expecting to receive any form of remuneration other than 2574
reimbursement for actual expenses. 2575

(2) "Criminal records check" has the same meaning as in 2576
section 109.572 of the Revised Code. 2577

(3) "Disqualifying offense" means any of the offenses 2578
listed or described in divisions (A) (3) (a) to (e) of section 2579
109.572 of the Revised Code. 2580

(4) "Employee" means a person employed by a responsible 2581
party in a full-time, part-time, or temporary position that 2582
involves providing ombudsman services to residents and 2583

recipients. "Employee" includes the person employed as the state long-term care ombudsman and a person employed as the head of a regional long-term care ombudsman program. "Employee" does not include a person who provides ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(5) "Responsible party" means the following:

(a) In the case of an applicant who is under final consideration for employment as the state long-term care ombudsman or the person employed as the state long-term care ombudsman, the director of aging;

(b) In the case of any other applicant who is under final consideration for employment with the state long-term care ombudsman program or any other employee of the state long-term care ombudsman program, the state long-term care ombudsman;

(c) In the case of an applicant who is under final consideration for employment with a regional long-term care ombudsman program (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the regional long-term care ombudsman program.

(B) A responsible party may not employ an applicant or continue to employ an employee in a position that involves providing ombudsman services to residents and recipients if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or

more of the databases listed in divisions (D) (1) to (5) of this section; 2613
2614

(b) That there is in the state nurse aide registry 2615
established under section 3721.32 of the Revised Code a 2616
statement detailing findings by the director of health that the 2617
applicant or employee neglected or abused a long-term care 2618
facility or residential care facility resident or 2619
misappropriated property of such a resident; 2620

(c) That the applicant or employee is included in one or 2621
more of the databases, if any, specified in rules adopted under 2622
this section and the rules prohibit the responsible party from 2623
employing an applicant or continuing to employ an employee 2624
included in such a database in a position that involves 2625
providing ombudsman services to residents and recipients. 2626

(2) After the applicant or employee is provided, pursuant 2627
to division (E) (2) (a) of this section, a copy of the form 2628
prescribed pursuant to division (C) (1) of section 109.572 of the 2629
Revised Code and the standard impression sheet prescribed 2630
pursuant to division (C) (2) of that section, the applicant or 2631
employee fails to complete the form or provide the applicant's 2632
or employee's fingerprint impressions on the standard impression 2633
sheet. 2634

(3) Unless the applicant or employee meets standards 2635
specified in rules adopted under this section, the applicant or 2636
employee is found by a criminal records check required by this 2637
section to have been convicted of, pleaded guilty to, or been 2638
found eligible for intervention in lieu of conviction for a 2639
disqualifying offense. 2640

(C) A responsible party or a responsible party's designee 2641

shall inform each applicant of both of the following at the time 2642
of the applicant's initial application for employment in a 2643
position that involves providing ombudsman services to residents 2644
and recipients: 2645

(1) That a review of the databases listed in division (D) 2646
of this section will be conducted to determine whether the 2647
responsible party is prohibited by division (B)(1) of this 2648
section from employing the applicant in the position; 2649

(2) That, unless the database review reveals that the 2650
applicant may not be employed in the position, a criminal 2651
records check of the applicant will be conducted and the 2652
applicant is required to provide a set of the applicant's 2653
fingerprint impressions as part of the criminal records check. 2654

(D) As a condition of any applicant's being employed by a 2655
responsible party in a position that involves providing 2656
ombudsman services to residents and recipients, the responsible 2657
party or designee shall conduct a database review of the 2658
applicant in accordance with rules adopted under this section. 2659
If rules adopted under this section so require, the responsible 2660
party or designee shall conduct a database review of an employee 2661
in accordance with the rules as a condition of the responsible 2662
party continuing to employ the employee in a position that 2663
involves providing ombudsman services to residents and 2664
recipients. A database review shall determine whether the 2665
applicant or employee is included in any of the following: 2666

(1) The excluded parties list system that is maintained by 2667
the United States general services administration pursuant to 2668
subpart 9.4 of the federal acquisition regulation and available 2669
at the federal web site known as the system for award 2670
management; 2671

(2) The list of excluded individuals and entities	2672
maintained by the office of inspector general in the United	2673
States department of health and human services pursuant to	2674
section 1128 of the "Social Security Act," 94 Stat. 2619 (1980),	2675
42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social	2676
Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as	2677
amended;	2678
(3) The registry of MR/DD -ID/DD employees established	2679
under section 5123.52 of the Revised Code;	2680
(4) The internet-based sex offender and child-victim	2681
offender database established under division (A)(11) of section	2682
2950.13 of the Revised Code;	2683
(5) The internet-based database of inmates established	2684
under section 5120.66 of the Revised Code;	2685
(6) The state nurse aide registry established under	2686
section 3721.32 of the Revised Code;	2687
(7) Any other database, if any, specified in rules adopted	2688
under this section.	2689
(E)(1) As a condition of any applicant's being employed by	2690
a responsible party in a position that involves providing	2691
ombudsman services to residents and recipients, the responsible	2692
party or designee shall request that the superintendent of the	2693
bureau of criminal identification and investigation conduct a	2694
criminal records check of the applicant. If rules adopted under	2695
this section so require, the responsible party or designee shall	2696
request that the superintendent conduct a criminal records check	2697
of an employee at times specified in the rules as a condition of	2698
the responsible party continuing to employ the employee in a	2699
position that involves providing ombudsman services to residents	2700

and recipients. However, the responsible party or designee is 2701
not required to request the criminal records check of the 2702
applicant or employee if the responsible party is prohibited by 2703
division (B) (1) of this section from employing the applicant or 2704
continuing to employ the employee in a position that involves 2705
providing ombudsman services to residents and recipients. If an 2706
applicant or employee for whom a criminal records check request 2707
is required by this section does not present proof of having 2708
been a resident of this state for the five-year period 2709
immediately prior to the date the criminal records check is 2710
requested or provide evidence that within that five-year period 2711
the superintendent has requested information about the applicant 2712
or employee from the federal bureau of investigation in a 2713
criminal records check, the responsible party or designee shall 2714
request that the superintendent obtain information from the 2715
federal bureau of investigation as part of the criminal records 2716
check. Even if an applicant or employee for whom a criminal 2717
records check request is required by this section presents proof 2718
of having been a resident of this state for the five-year 2719
period, the responsible party or designee may request that the 2720
superintendent include information from the federal bureau of 2721
investigation in the criminal records check. 2722

(2) A responsible party or designee shall do all of the 2723
following: 2724

(a) Provide to each applicant and employee for whom a 2725
criminal records check request is required by this section a 2726
copy of the form prescribed pursuant to division (C) (1) of 2727
section 109.572 of the Revised Code and a standard impression 2728
sheet prescribed pursuant to division (C) (2) of that section; 2729

(b) Obtain the completed form and standard impression 2730

sheet from the applicant or employee; 2731

(c) Forward the completed form and standard impression 2732
sheet to the superintendent. 2733

(3) A responsible party shall pay to the bureau of 2734
criminal identification and investigation the fee prescribed 2735
pursuant to division (C) (3) of section 109.572 of the Revised 2736
Code for each criminal records check the responsible party or 2737
the responsible party's designee requests under this section. 2738
The responsible party may charge an applicant a fee not 2739
exceeding the amount the responsible party pays to the bureau 2740
under this section if the responsible party or designee notifies 2741
the applicant at the time of initial application for employment 2742
of the amount of the fee. 2743

(F) (1) A responsible party may employ conditionally an 2744
applicant for whom a criminal records check is required by this 2745
section prior to obtaining the results of the criminal records 2746
check if both of the following apply: 2747

(a) The responsible party is not prohibited by division 2748
(B) (1) of this section from employing the applicant in a 2749
position that involves providing ombudsman services to residents 2750
and recipients; 2751

(b) The responsible party or designee requests the 2752
criminal records check in accordance with division (E) of this 2753
section not later than five business days after the applicant 2754
begins conditional employment. 2755

(2) A responsible party shall terminate the employment of 2756
an applicant employed conditionally under division (F) (1) of 2757
this section if the results of the criminal records check, other 2758
than the results of any request for information from the federal 2759

bureau of investigation, are not obtained within the period 2760
ending sixty days after the date the request for the criminal 2761
records check is made. Regardless of when the results of the 2762
criminal records check are obtained, if the results indicate 2763
that the applicant has been convicted of, pleaded guilty to, or 2764
been found eligible for intervention in lieu of conviction for a 2765
disqualifying offense, the responsible party shall terminate the 2766
applicant's employment unless the applicant meets standards 2767
specified in rules adopted under this section that permit the 2768
responsible party to employ the applicant and the responsible 2769
party chooses to employ the applicant. Termination of employment 2770
under this division shall be considered just cause for discharge 2771
for purposes of division (D) (2) of section 4141.29 of the 2772
Revised Code if the applicant makes any attempt to deceive the 2773
responsible party or designee about the applicant's criminal 2774
record. 2775

(G) The report of any criminal records check conducted 2776
pursuant to a request made under this section is not a public 2777
record for the purposes of section 149.43 of the Revised Code 2778
and shall not be made available to any person other than the 2779
following: 2780

(1) The applicant or employee who is the subject of the 2781
criminal records check or the applicant's or employee's 2782
representative; 2783

(2) The responsible party or designee; 2784

(3) In the case of a criminal records check conducted for 2785
an applicant who is under final consideration for employment 2786
with a regional long-term care ombudsman program (including as 2787
the head of the regional program) or an employee of a regional 2788
long-term care ombudsman program (including the head of a 2789

regional program), the state long-term care ombudsman or a 2790
representative of the office of the state long-term care 2791
ombudsman program who is responsible for monitoring the regional 2792
program's compliance with this section; 2793

(4) A court, hearing officer, or other necessary 2794
individual involved in a case dealing with any of the following: 2795

(a) A denial of employment of the applicant or employee; 2796

(b) Employment or unemployment benefits of the applicant 2797
or employee; 2798

(c) A civil or criminal action regarding the medicaid 2799
program or a program the department of aging administers. 2800

(H) In a tort or other civil action for damages that is 2801
brought as the result of an injury, death, or loss to person or 2802
property caused by an applicant or employee who a responsible 2803
party employs in a position that involves providing ombudsman 2804
services to residents and recipients, all of the following shall 2805
apply: 2806

(1) If the responsible party employed the applicant or 2807
employee in good faith and reasonable reliance on the report of 2808
a criminal records check requested under this section, the 2809
responsible party shall not be found negligent solely because of 2810
its reliance on the report, even if the information in the 2811
report is determined later to have been incomplete or 2812
inaccurate. 2813

(2) If the responsible party employed the applicant in 2814
good faith on a conditional basis pursuant to division (F) of 2815
this section, the responsible party shall not be found negligent 2816
solely because it employed the applicant prior to receiving the 2817
report of a criminal records check requested under this section. 2818

(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I) The state long-term care ombudsman may not act as the director of aging's designee for the purpose of this section. The head of a regional long-term care ombudsman program may not act as the regional program's designee for the purpose of this section if the head is the employee for whom a database review or criminal records check is being conducted.

(J) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database

reviews and criminal records checks under this section, the 2847
times at which the database reviews and criminal records checks 2848
are to be conducted; 2849

(c) If the rules specify other databases to be checked as 2850
part of the database reviews, the circumstances under which a 2851
responsible party is prohibited from employing an applicant or 2852
continuing to employ an employee who is found by a database 2853
review to be included in one or more of those databases; 2854

(d) Standards that an applicant or employee must meet for 2855
a responsible party to be permitted to employ the applicant or 2856
continue to employ the employee in a position that involves 2857
providing ombudsman services to residents and recipients if the 2858
applicant or employee is found by a criminal records check 2859
required by this section to have been convicted of, pleaded 2860
guilty to, or been found eligible for intervention in lieu of 2861
conviction for a disqualifying offense. 2862

Sec. 173.38. (A) As used in this section: 2863

(1) "Applicant" means a person who is under final 2864
consideration for employment with a responsible party in a full- 2865
time, part-time, or temporary direct-care position or is 2866
referred to a responsible party by an employment service for 2867
such a position. "Applicant" does not include a person being 2868
considered for a direct-care position as a volunteer. 2869

(2) "Area agency on aging" has the same meaning as in 2870
section 173.14 of the Revised Code. 2871

(3) "Chief administrator of a responsible party" includes 2872
a consumer when the consumer is a responsible party. 2873

(4) "Community-based long-term care services" means 2874
community-based long-term care services, as defined in section 2875

173.14 of the Revised Code, that are provided under a program	2876
the department of aging administers.	2877
(5) "Consumer" means an individual who receives community-	2878
based long-term care services.	2879
(6) "Criminal records check" has the same meaning as in	2880
section 109.572 of the Revised Code.	2881
(7) (a) "Direct-care position" means an employment position	2882
in which an employee has either or both of the following:	2883
(i) In-person contact with one or more consumers;	2884
(ii) Access to one or more consumers' personal property or	2885
records.	2886
(b) "Direct-care position" does not include a person whose	2887
sole duties are transporting individuals under Chapter 306. of	2888
the Revised Code.	2889
(8) "Disqualifying offense" means any of the offenses	2890
listed or described in divisions (A) (3) (a) to (e) of section	2891
109.572 of the Revised Code.	2892
(9) "Employee" means a person employed by a responsible	2893
party in a full-time, part-time, or temporary direct-care	2894
position and a person who works in such a position due to being	2895
referred to a responsible party by an employment service.	2896
"Employee" does not include a person who works in a direct-care	2897
position as a volunteer.	2898
(10) "PASSPORT administrative agency" has the same meaning	2899
as in section 173.42 of the Revised Code.	2900
(11) "Provider" has the same meaning as in section 173.39	2901
of the Revised Code.	2902

(12) "Responsible party" means the following:	2903
(a) An area agency on aging in the case of either of the following:	2904
	2905
(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	2906
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	2910
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.	2911
	2912
	2913
	2914
(b) A PASSPORT administrative agency in the case of either of the following:	2915
	2916
(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	2917
	2918
	2919
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	2921
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.	2922
	2923
	2924
	2925
(c) A provider in the case of either of the following:	2926
(i) A person who is an applicant because the person is under final consideration for employment with the provider in a full-time, part-time, or temporary direct-care position or is referred to the provider by an employment service for such a	2927
	2928
	2929
	2930

position;	2931
(ii) A person who is an employee because the person is	2932
employed by the provider in a full-time, part-time, or temporary	2933
direct-care position or works in such a position due to being	2934
referred to the provider by an employment service.	2935
(d) A subcontractor in the case of either of the	2936
following:	2937
(i) A person who is an applicant because the person is	2938
under final consideration for employment with the subcontractor	2939
in a full-time, part-time, or temporary direct-care position or	2940
is referred to the subcontractor by an employment service for	2941
such a position;	2942
(ii) A person who is an employee because the person is	2943
employed by the subcontractor in a full-time, part-time, or	2944
temporary direct-care position or works in such a position due	2945
to being referred to the subcontractor by an employment service.	2946
(e) A consumer in the case of either of the following:	2947
(i) A person who is an applicant because the person is	2948
under final consideration for employment with the consumer in a	2949
full-time, part-time, or temporary direct-care position for	2950
which the consumer, as the employer of record, is to direct the	2951
person in the provision of community-based long-term care	2952
services the person is to provide the consumer or is referred to	2953
the consumer by an employment service for such a position;	2954
(ii) A person who is an employee because the person is	2955
employed by the consumer in a full-time, part-time, or temporary	2956
direct-care position for which the consumer, as the employer of	2957
record, directs the person in the provision of community-based	2958
long-term care services the person provides to the consumer or	2959

who works in such a position due to being referred to the consumer by an employment service.

(13) "Subcontractor" has the meaning specified in rules adopted under this section.

(14) "Volunteer" means a person who serves in a direct-care position without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(15) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 173.381 or 3701.881 of the Revised Code or to any individual who is subject to a criminal records check under section 3721.121 of the Revised Code. If a provider or subcontractor also is a waiver agency, the provider or subcontractor may provide for applicants and employees to undergo database reviews and criminal records checks in accordance with section 5164.342 of the Revised Code rather than this section.

(C) No responsible party shall employ an applicant or continue to employ an employee in a direct-care position if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E) (1) to (5) of this section;

(b) That there is in the state nurse aide registry

established under section 3721.32 of the Revised Code a 2988
statement detailing findings by the director of health that the 2989
applicant or employee neglected or abused a long-term care 2990
facility or residential care facility resident or 2991
misappropriated property of such a resident; 2992

(c) That the applicant or employee is included in one or 2993
more of the databases, if any, specified in rules adopted under 2994
this section and the rules prohibit the responsible party from 2995
employing an applicant or continuing to employ an employee 2996
included in such a database in a direct-care position. 2997

(2) After the applicant or employee is provided, pursuant 2998
to division (F) (2) (a) of this section, a copy of the form 2999
prescribed pursuant to division (C) (1) of section 109.572 of the 3000
Revised Code and the standard impression sheet prescribed 3001
pursuant to division (C) (2) of that section, the applicant or 3002
employee fails to complete the form or provide the applicant's 3003
or employee's fingerprint impressions on the standard impression 3004
sheet. 3005

(3) Unless the applicant or employee meets standards 3006
specified in rules adopted under this section, the applicant or 3007
employee is found by a criminal records check required by this 3008
section to have been convicted of, pleaded guilty to, or been 3009
found eligible for intervention in lieu of conviction for a 3010
disqualifying offense. 3011

(D) Except as provided by division (G) of this section, 3012
the chief administrator of a responsible party shall inform each 3013
applicant of both of the following at the time of the 3014
applicant's initial application for employment or referral to 3015
the responsible party by an employment service for a direct-care 3016
position: 3017

(1) That a review of the databases listed in division (E) 3018
of this section will be conducted to determine whether the 3019
responsible party is prohibited by division (C) (1) of this 3020
section from employing the applicant in the direct-care 3021
position; 3022

(2) That, unless the database review reveals that the 3023
applicant may not be employed in the direct-care position, a 3024
criminal records check of the applicant will be conducted and 3025
the applicant is required to provide a set of the applicant's 3026
fingerprint impressions as part of the criminal records check. 3027

(E) As a condition of employing any applicant in a direct- 3028
care position, the chief administrator of a responsible party 3029
shall conduct a database review of the applicant in accordance 3030
with rules adopted under this section. If rules adopted under 3031
this section so require, the chief administrator of a 3032
responsible party shall conduct a database review of an employee 3033
in accordance with the rules as a condition of continuing to 3034
employ the employee in a direct-care position. However, a chief 3035
administrator is not required to conduct a database review of an 3036
applicant or employee if division (G) of this section applies. A 3037
database review shall determine whether the applicant or 3038
employee is included in any of the following: 3039

(1) The excluded parties list system that is maintained by 3040
the United States general services administration pursuant to 3041
subpart 9.4 of the federal acquisition regulation and available 3042
at the federal web site known as the system for award 3043
management; 3044

(2) The list of excluded individuals and entities 3045
maintained by the office of inspector general in the United 3046
States department of health and human services pursuant to the 3047

"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 3048
and 1320c-5; 3049

(3) The registry of ~~MR/DD~~-ID/DD employees established 3050
under section 5123.52 of the Revised Code; 3051

(4) The internet-based sex offender and child-victim 3052
offender database established under division (A)(11) of section 3053
2950.13 of the Revised Code; 3054

(5) The internet-based database of inmates established 3055
under section 5120.66 of the Revised Code; 3056

(6) The state nurse aide registry established under 3057
section 3721.32 of the Revised Code; 3058

(7) Any other database, if any, specified in rules adopted 3059
under this section. 3060

(F)(1) As a condition of employing any applicant in a 3061
direct-care position, the chief administrator of a responsible 3062
party shall request that the superintendent of the bureau of 3063
criminal identification and investigation conduct a criminal 3064
records check of the applicant. If rules adopted under this 3065
section so require, the chief administrator of a responsible 3066
party shall request that the superintendent conduct a criminal 3067
records check of an employee at times specified in the rules as 3068
a condition of continuing to employ the employee in a direct- 3069
care position. However, the chief administrator is not required 3070
to request the criminal records check of the applicant or 3071
employee if division (G) of this section applies or the 3072
responsible party is prohibited by division (C)(1) of this 3073
section from employing the applicant or continuing to employ the 3074
employee in a direct-care position. If an applicant or employee 3075
for whom a criminal records check request is required by this 3076

section does not present proof of having been a resident of this 3077
state for the five-year period immediately prior to the date the 3078
criminal records check is requested or provide evidence that 3079
within that five-year period the superintendent has requested 3080
information about the applicant or employee from the federal 3081
bureau of investigation in a criminal records check, the chief 3082
administrator shall request that the superintendent obtain 3083
information from the federal bureau of investigation as part of 3084
the criminal records check. Even if an applicant or employee for 3085
whom a criminal records check request is required by this 3086
section presents proof of having been a resident of this state 3087
for the five-year period, the chief administrator may request 3088
that the superintendent include information from the federal 3089
bureau of investigation in the criminal records check. 3090

(2) The chief administrator shall do all of the following: 3091

(a) Provide to each applicant and employee for whom a 3092
criminal records check request is required by this section a 3093
copy of the form prescribed pursuant to division (C) (1) of 3094
section 109.572 of the Revised Code and a standard impression 3095
sheet prescribed pursuant to division (C) (2) of that section; 3096

(b) Obtain the completed form and standard impression 3097
sheet from the applicant or employee; 3098

(c) Forward the completed form and standard impression 3099
sheet to the superintendent. 3100

(3) A responsible party shall pay to the bureau of 3101
criminal identification and investigation the fee prescribed 3102
pursuant to division (C) (3) of section 109.572 of the Revised 3103
Code for each criminal records check the responsible party 3104
requests under this section. A responsible party may charge an 3105

applicant a fee not exceeding the amount the responsible party 3106
pays to the bureau under this section if both of the following 3107
apply: 3108

(a) The responsible party notifies the applicant at the 3109
time of initial application for employment of the amount of the 3110
fee and that, unless the fee is paid, the applicant will not be 3111
considered for employment. 3112

(b) The medicaid program does not pay the responsible 3113
party for the fee it pays to the bureau under this section. 3114

(G) Divisions (D) to (F) of this section do not apply with 3115
regard to an applicant or employee if the applicant or employee 3116
is referred to a responsible party by an employment service that 3117
supplies full-time, part-time, or temporary staff for direct- 3118
care positions and both of the following apply: 3119

(1) The chief administrator of the responsible party 3120
receives from the employment service confirmation that a review 3121
of the databases listed in division (E) of this section was 3122
conducted of the applicant or employee. 3123

(2) The chief administrator of the responsible party 3124
receives from the employment service, applicant, or employee a 3125
report of the results of a criminal records check of the 3126
applicant or employee that has been conducted by the 3127
superintendent within the one-year period immediately preceding 3128
the following: 3129

(a) In the case of an applicant, the date of the 3130
applicant's referral by the employment service to the 3131
responsible party; 3132

(b) In the case of an employee, the date by which the 3133
responsible party would otherwise have to request a criminal 3134

records check of the employee under division (F) of this 3135
section. 3136

(H) (1) A responsible party may employ conditionally an 3137
applicant for whom a criminal records check request is required 3138
by this section prior to obtaining the results of the criminal 3139
records check if the responsible party is not prohibited by 3140
division (C) (1) of this section from employing the applicant in 3141
a direct-care position and either of the following applies: 3142

(a) The chief administrator of the responsible party 3143
requests the criminal records check in accordance with division 3144
(F) of this section not later than five business days after the 3145
applicant begins conditional employment. 3146

(b) The applicant is referred to the responsible party by 3147
an employment service, the employment service or the applicant 3148
provides the chief administrator of the responsible party a 3149
letter that is on the letterhead of the employment service, the 3150
letter is dated and signed by a supervisor or another designated 3151
official of the employment service, and the letter states all of 3152
the following: 3153

(i) That the employment service has requested the 3154
superintendent to conduct a criminal records check regarding the 3155
applicant; 3156

(ii) That the requested criminal records check is to 3157
include a determination of whether the applicant has been 3158
convicted of, pleaded guilty to, or been found eligible for 3159
intervention in lieu of conviction for a disqualifying offense; 3160

(iii) That the employment service has not received the 3161
results of the criminal records check as of the date set forth 3162
on the letter; 3163

(iv) That the employment service promptly will send a copy 3164
of the results of the criminal records check to the chief 3165
administrator of the responsible party when the employment 3166
service receives the results. 3167

(2) If a responsible party employs an applicant 3168
conditionally pursuant to division (H)(1)(b) of this section, 3169
the employment service, on its receipt of the results of the 3170
criminal records check, promptly shall send a copy of the 3171
results to the chief administrator of the responsible party. 3172

(3) A responsible party that employs an applicant 3173
conditionally pursuant to division (H)(1)(a) or (b) of this 3174
section shall terminate the applicant's employment if the 3175
results of the criminal records check, other than the results of 3176
any request for information from the federal bureau of 3177
investigation, are not obtained within the period ending sixty 3178
days after the date the request for the criminal records check 3179
is made. Regardless of when the results of the criminal records 3180
check are obtained, if the results indicate that the applicant 3181
has been convicted of, pleaded guilty to, or been found eligible 3182
for intervention in lieu of conviction for a disqualifying 3183
offense, the responsible party shall terminate the applicant's 3184
employment unless the applicant meets standards specified in 3185
rules adopted under this section that permit the responsible 3186
party to employ the applicant and the responsible party chooses 3187
to employ the applicant. Termination of employment under this 3188
division shall be considered just cause for discharge for 3189
purposes of division (D)(2) of section 4141.29 of the Revised 3190
Code if the applicant makes any attempt to deceive the 3191
responsible party about the applicant's criminal record. 3192

(I) The report of any criminal records check conducted 3193

pursuant to a request made under 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 following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The chief administrator of the responsible party requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides community-based long-term care services that is owned or operated by the same entity that owns or operates the responsible party that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of aging or a person authorized by the director to monitor a responsible party's compliance with this section;

(6) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if any of the following apply:

(a) In the case of a criminal records check requested by a provider or subcontractor, the provider or subcontractor also is a waiver agency;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request

for an applicant or employee the employment service refers to a 3222
provider or subcontractor that also is a waiver agency; 3223

(c) The criminal records check is requested by a consumer 3224
who is acting as a responsible party. 3225

(7) A court, hearing officer, or other necessary 3226
individual involved in a case dealing with any of the following: 3227

(a) A denial of employment of the applicant or employee; 3228

(b) Employment or unemployment benefits of the applicant 3229
or employee; 3230

(c) A civil or criminal action regarding the medicaid 3231
program or a program the department of aging administers. 3232

(J) In a tort or other civil action for damages that is 3233
brought as the result of an injury, death, or loss to person or 3234
property caused by an applicant or employee who a responsible 3235
party employs in a direct-care position, all of the following 3236
shall apply: 3237

(1) If the responsible party employed the applicant or 3238
employee in good faith and reasonable reliance on the report of 3239
a criminal records check requested under this section, the 3240
responsible party shall not be found negligent solely because of 3241
its reliance on the report, even if the information in the 3242
report is determined later to have been incomplete or 3243
inaccurate. 3244

(2) If the responsible party employed the applicant in 3245
good faith on a conditional basis pursuant to division (H) of 3246
this section, the responsible party shall not be found negligent 3247
solely because it employed the applicant prior to receiving the 3248
report of a criminal records check requested under this section. 3249

(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(K) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The meaning of the term "subcontractor";

(b) The procedures for conducting database reviews under this section;

(c) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(d) If the rules specify other databases to be checked as

part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(e) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a direct-care position if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

Sec. 173.381. (A) As used in this section:

(1) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers.

(2) "Community-based long-term care services certificate" means a certificate issued under section 173.391 of the Revised Code.

(3) "Community-based long-term care services contract or grant" means a contract or grant awarded under section 173.392 of the Revised Code.

(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(6) "Provider" has the same meaning as in section 173.39

of the Revised Code. 3305

(7) "Self-employed provider" means a provider who works 3306
for the provider's self and has no employees. 3307

(B) This section does not apply to any individual who is 3308
subject to a database review or criminal records check under 3309
section 3701.881 of the Revised Code. 3310

(C) (1) The department of aging or its designee shall take 3311
the following actions when the circumstances specified in 3312
division (C) (2) of this section apply: 3313

(a) Refuse to issue a community-based long-term care 3314
services certificate to a self-employed provider; 3315

(b) Revoke a self-employed provider's community-based 3316
long-term care services certificate; 3317

(c) Refuse to award a community-based long-term care 3318
services contract or grant to a self-employed provider; 3319

(d) Terminate a self-employed provider's community-based 3320
long-term care services contract or grant awarded on or after 3321
~~the effective date of this section~~ September 15, 2014. 3322

(2) The following are the circumstances that require the 3323
department of aging or its designee to take action under 3324
division (C) (1) of this section: 3325

(a) A review of the databases listed in division (E) of 3326
this section reveals any of the following: 3327

(i) That the self-employed provider is included in one or 3328
more of the databases listed in divisions (E) (1) to (5) of this 3329
section; 3330

(ii) That there is in the state nurse aide registry 3331

established under section 3721.32 of the Revised Code a 3332
statement detailing findings by the director of health that the 3333
self-employed provider neglected or abused a long-term care 3334
facility or residential care facility resident or 3335
misappropriated property of such a resident; 3336

(iii) That the self-employed provider is included in one 3337
or more of the databases, if any, specified in rules adopted 3338
under this section and the rules require the department or its 3339
designee to take action under division (C)(1) of this section if 3340
a self-employed provider is included in such a database. 3341

(b) After the self-employed provider is provided, pursuant 3342
to division (F)(2)(a) of this section, a copy of the form 3343
prescribed pursuant to division (C)(1) of section 109.572 of the 3344
Revised Code and the standard impression sheet prescribed 3345
pursuant to division (C)(2) of that section, the self-employed 3346
provider fails to complete the form or provide the self-employed 3347
provider's fingerprint impressions on the standard impression 3348
sheet. 3349

(c) Unless the self-employed provider meets standards 3350
specified in rules adopted under this section, the self-employed 3351
provider is found by a criminal records check required by this 3352
section to have been convicted of, pleaded guilty to, or been 3353
found eligible for intervention in lieu of conviction for a 3354
disqualifying offense. 3355

(D) The department of aging or its designee shall inform 3356
each self-employed provider of both of the following at the time 3357
of the self-employed provider's initial application for a 3358
community-based long-term care services certificate or initial 3359
bid for a community-based long-term care services contract or 3360
grant: 3361

(1) That a review of the databases listed in division (E) 3362
of this section will be conducted to determine whether the 3363
department or its designee is required by division (C) of this 3364
section to refuse to issue or award a community-based long-term 3365
care services certificate or community-based long-term care 3366
services contract or grant to the self-employed provider; 3367

(2) That, unless the database review reveals that the 3368
department or its designee is required to refuse to issue or 3369
award a community-based long-term care services certificate or 3370
community-based long-term care services contract or grant to the 3371
self-employed provider, a criminal records check of the self- 3372
employed provider will be conducted and the self-employed 3373
provider is required to provide a set of the self-employed 3374
provider's fingerprint impressions as part of the criminal 3375
records check. 3376

(E) As a condition of issuing or awarding a community- 3377
based long-term care services certificate or community-based 3378
long-term care services contract or grant to a self-employed 3379
provider, the department of aging or its designee shall conduct 3380
a database review of the self-employed provider in accordance 3381
with rules adopted under this section. If rules adopted under 3382
this section so require, the department or its designee shall 3383
conduct a database review of a self-employed provider in 3384
accordance with the rules as a condition of not revoking or 3385
terminating the self-employed provider's community-based long- 3386
term care services certificate or community-based long-term care 3387
services contract or grant. A database review shall determine 3388
whether the self-employed provider is included in any of the 3389
following: 3390

(1) The excluded parties list system that is maintained by 3391

the United States general services administration pursuant to 3392
subpart 9.4 of the federal acquisition regulation and available 3393
at the federal web site known as the system for award 3394
management; 3395

(2) The list of excluded individuals and entities 3396
maintained by the office of inspector general in the United 3397
States department of health and human services pursuant to the 3398
"Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; 3399

(3) The registry of ~~MR/DD~~-ID/DD employees established 3400
under section 5123.52 of the Revised Code; 3401

(4) The internet-based sex offender and child-victim 3402
offender database established under division (A)(11) of section 3403
2950.13 of the Revised Code; 3404

(5) The internet-based database of inmates established 3405
under section 5120.66 of the Revised Code; 3406

(6) The state nurse aide registry established under 3407
section 3721.32 of the Revised Code; 3408

(7) Any other database, if any, specified in rules adopted 3409
under this section. 3410

(F)(1) As a condition of issuing or awarding a community- 3411
based long-term care services certificate or community-based 3412
long-term care services contract or grant to a self-employed 3413
provider, the department of aging or its designee shall request 3414
that the superintendent of the bureau of criminal identification 3415
and investigation conduct a criminal records check of the self- 3416
employed provider. If rules adopted under this section so 3417
require, the department or its designee shall request that the 3418
superintendent conduct a criminal records check of a self- 3419
employed provider at times specified in the rules as a condition 3420

of not revoking or terminating the self-employed provider's 3421
community-based long-term care services certificate or 3422
community-based long-term care services contract or grant. 3423
However, the department or its designee is not required to 3424
request the criminal records check of the self-employed provider 3425
if the department or its designee, because of circumstances 3426
specified in division (C) (2) (a) of this section, is required to 3427
refuse to issue or award a community-based long-term care 3428
services certificate or community-based long-term care services 3429
contract or grant to the self-employed provider or to revoke or 3430
terminate the self-employed provider's certificate or contract 3431
or grant. 3432

If a self-employed provider for whom a criminal records 3433
check request is required by this section does not present proof 3434
of having been a resident of this state for the five-year period 3435
immediately prior to the date the criminal records check is 3436
requested or provide evidence that within that five-year period 3437
the superintendent has requested information about the self- 3438
employed provider from the federal bureau of investigation in a 3439
criminal records check, the department or its designee shall 3440
request that the superintendent obtain information from the 3441
federal bureau of investigation as part of the criminal records 3442
check. Even if a self-employed provider for whom a criminal 3443
records check request is required by this section presents proof 3444
of having been a resident of this state for the five-year 3445
period, the department or its designee may request that the 3446
superintendent include information from the federal bureau of 3447
investigation in the criminal records check. 3448

(2) The department or its designee shall do all of the 3449
following: 3450

(a) Provide to each self-employed provider for whom a criminal records check request is required by 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 prescribed pursuant to division (C)(2) of that section; 3451-3455

(b) Obtain the completed form and standard impression sheet from the self-employed provider; 3456-3457

(c) Forward the completed form and standard impression sheet to the superintendent. 3458-3459

(3) The department or its designee 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 of a self-employed provider the department or its designee requests under this section. The department or its designee may charge the self-employed provider a fee that does not exceed the amount the department or its designee pays to the bureau. 3460-3467

(G) The report of any criminal records check of a self-employed provider conducted pursuant to a request made under 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 following: 3468-3472

(1) The self-employed provider or the self-employed provider's representative; 3473-3474

(2) The department of aging, the department's designee, or a representative of the department or its designee; 3475-3476

(3) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if the self-employed provider is to provide, or 3477-3479

provides, community-based long-term care services under a 3480
component of the medicaid program that the department of aging 3481
administers; 3482

(4) A court, hearing officer, or other necessary 3483
individual involved in a case dealing with any of the following: 3484

(a) A refusal to issue or award a community-based long- 3485
term services certificate or community-based long-term care 3486
services contract or grant to the self-employed provider; 3487

(b) A revocation or termination of the self-employed 3488
provider's community-based long-term care services certificate 3489
or community-based long-term care services contract or grant; 3490

(c) A civil or criminal action regarding a program the 3491
department of aging administers. 3492

(H) In a tort or other civil action for damages that is 3493
brought as the result of an injury, death, or loss to person or 3494
property caused by a self-employed provider, both of the 3495
following shall apply: 3496

(1) If the department of aging or its designee, in good 3497
faith and reasonable reliance on the report of a criminal 3498
records check requested under this section, issued or awarded a 3499
community-based long-term care services certificate or 3500
community-based long-term care services contract or grant to the 3501
self-employed provider or did not revoke or terminate the self- 3502
employed provider's certificate or contract or grant, the 3503
department and its designee shall not be found negligent solely 3504
because of its reliance on the report, even if the information 3505
in the report is determined later to have been incomplete or 3506
inaccurate. 3507

(2) If the department or its designee in good faith issued 3508

or awarded a community-based long-term care services certificate 3509
or community-based long-term care services contract or grant to 3510
the self-employed provider or did not revoke or terminate the 3511
self-employed provider's certificate or contract or grant 3512
because the self-employed provider meets standards specified in 3513
rules adopted under this section, the department and its 3514
designee shall not be found negligent solely because the self- 3515
employed provider has been convicted of, pleaded guilty to, or 3516
been found eligible for intervention in lieu of conviction for a 3517
disqualifying offense. 3518

(I) The director of aging shall adopt rules in accordance 3519
with Chapter 119. of the Revised Code to implement this section. 3520

(1) The rules may do the following: 3521

(a) Require self-employed providers who have been issued 3522
or awarded community-based long-term care services certificates 3523
or community-based long-term care services contracts or grants 3524
to undergo database reviews and criminal records checks under 3525
this section; 3526

(b) If the rules require self-employed providers who have 3527
been issued or awarded community-based long-term care services 3528
certificates or community-based long-term care services 3529
contracts or grants to undergo database reviews and criminal 3530
records checks under this section, exempt one or more classes of 3531
such self-employed providers from the requirements; 3532

(c) For the purpose of division (E)(7) of this section, 3533
specify other databases that are to be checked as part of a 3534
database review conducted under this section. 3535

(2) The rules shall specify all of the following: 3536

(a) The procedures for conducting database reviews under 3537

this section; 3538

(b) If the rules require self-employed providers who have 3539
been issued or awarded community-based long-term care services 3540
certificates or community-based long-term care services 3541
contracts or grants to undergo database reviews and criminal 3542
records checks under this section, the times at which the 3543
database reviews and criminal records checks are to be 3544
conducted; 3545

(c) If the rules specify other databases to be checked as 3546
part of the database reviews, the circumstances under which the 3547
department of aging or its designee is required to refuse to 3548
issue or award a community-based long-term care services 3549
certificate or community-based long-term care services contract 3550
or grant to a self-employed provider or to revoke or terminate a 3551
self-employed provider's certificate or contract or grant when 3552
the self-employed provider is found by a database review to be 3553
included in one or more of those databases; 3554

(d) Standards that a self-employed provider must meet for 3555
the department or its designee to be permitted to issue or award 3556
a community-based long-term care services certificate or 3557
community-based long-term care services contract or grant to the 3558
self-employed provider or not to revoke or terminate the self- 3559
employed provider's certificate or contract or grant if the 3560
self-employed provider is found by a criminal records check 3561
required by this section to have been convicted of, pleaded 3562
guilty to, or been found eligible for intervention in lieu of 3563
conviction for a disqualifying offense. 3564

Sec. 305.07. (A) Special sessions of the board of county 3565
commissioners may be held as often as the commissioners deem it 3566
necessary. At a regular or special session, the board may make 3567

any necessary order or contract in relation to the building, 3568
furnishing, repairing, or insuring of public buildings or 3569
bridges; the employment of janitors; the improvements or 3570
enclosure of public grounds; the maintenance or support of 3571
~~mentally retarded~~ intellectually disabled or developmentally 3572
disabled persons or of the mentally ill; the expenditure of any 3573
fund; or the board may provide for the reconstruction or repair 3574
of any bridge destroyed by fire, flood, or otherwise. The board 3575
shall comply with division (F) of section 121.22 of the Revised 3576
Code. The board may do any other official act not, by law, 3577
restricted to a particular regular session. 3578

(B) The board of county commissioners may provide by 3579
resolution for the holding of special sessions of the board at a 3580
location in the county other than the usual office of the board 3581
at the county seat. The adoption of the resolution and the 3582
location where the sessions will be held shall be entered on the 3583
journal of the board. The board shall give reasonable public 3584
notice of its action taken pursuant to this division, in 3585
accordance with division (F) of section 121.22 of the Revised 3586
Code. 3587

Sec. 307.02. The board of county commissioners of any 3588
county, in addition to its other powers, may purchase, for cash 3589
or by installment payments, enter into lease-purchase 3590
agreements, lease with option to purchase, lease, appropriate, 3591
construct, enlarge, improve, rebuild, equip, and furnish a 3592
courthouse, county offices, jail, county home, juvenile court 3593
building, detention facility, public market houses, retail store 3594
rooms and offices, if located in a building acquired to house 3595
county offices, for which store rooms or offices the board of 3596
county commissioners may establish and collect rents or enter 3597
into leases as provided in section 307.09 of the Revised Code, 3598

county children's home, community mental health facility, 3599
community ~~mental retardation~~ intellectual disability or 3600
developmental disability facility, facilities for senior 3601
citizens, alcohol treatment and control center, other necessary 3602
buildings, public stadiums, public auditorium, exhibition hall, 3603
zoological park, public library buildings, golf courses, and 3604
off-street parking facilities determined by the board of county 3605
commissioners to be so situated as to be useful for any of such 3606
purposes or any combination of such purposes, for the use of 3607
which parking facilities the board of county commissioners may 3608
establish and collect rates, charges, or rents, and sites 3609
therefor, such real estate adjoining an existing site as is 3610
necessary for any of such purposes, including real estate 3611
necessary to afford light, air, protection from fire, suitable 3612
surroundings, ingress, and egress; such copies of any public 3613
records of such county, made or reproduced by miniature 3614
photography or microfilm, as are necessary for the protection 3615
and preservation of public records of such county. 3616

The board of county commissioners of any county may lease 3617
for a period not to exceed forty years, pursuant to a contract 3618
providing for the construction thereof under a lease-purchase 3619
plan, those buildings, structures, and other improvements 3620
enumerated in the first paragraph of this section, and in 3621
conjunction therewith, may grant leases, easements, or licenses 3622
for lands under the control of the county for a period not to 3623
exceed forty years. Such lease-purchase plan shall provide that 3624
at the end of the lease period such buildings, structures, and 3625
related improvements, together with the land on which they are 3626
situated, shall become the property of the county without cost. 3627

Whenever any building, structure or other improvement is 3628
to be so leased by a county, the board of county commissioners 3629

shall file in the office of the board, if the board has a full-
time clerk, or in the office of the county auditor such basic
plans, specifications, bills of materials, and estimates of cost
with sufficient detail to afford bidders all needed information,
or alternatively, shall file the following plans, details, bills
of materials, and specifications:

(A) Full and accurate plans, suitable for the use of
mechanics and other builders in such construction, improvement,
addition, alteration, or installation;

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

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

(D) 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;

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

The board of county commissioners shall invite bids in the
manner prescribed in sections 307.86 to 307.92 of the Revised
Code. Such bids shall contain the terms upon which the builder
would propose to lease the building, structure, or other
improvement to the county. The form of the bid approved by the
board of county commissioners shall be used and a bid shall be
invalid and not considered unless such form is used without
change, alteration, or addition.

Before submitting bids pursuant to this section, any
builder shall have complied with sections 153.50 to 153.52 of

the Revised Code. 3659

On the day and at the place named for receiving bids for 3660
entering into lease agreements with the county, the board of 3661
county commissioners shall open the bids, and shall publicly 3662
proceed immediately to tabulate the bids. No such lease 3663
agreement shall be entered into until the bureau of workers' 3664
compensation has certified that the corporation, partnership, or 3665
person to be awarded the lease agreement has complied with 3666
Chapter 4123. of the Revised Code, and until, if the builder 3667
submitting the lowest and best bid is a foreign corporation, the 3668
secretary of state has certified that such corporation is 3669
authorized to do business in this state, and until, if the 3670
builder submitting the lowest and best bid is a person or 3671
partnership nonresident of this state, such person or 3672
partnership has filed with the secretary of state a power of 3673
attorney designating the secretary of state as its agent for the 3674
purpose of accepting service of summons in any action brought 3675
under Chapter 4123. of the Revised Code, and until the agreement 3676
is submitted to the county prosecutor and the county 3677
prosecutor's approval certified thereon. Within thirty days 3678
after the day on which the bids are received, the board of 3679
county commissioners shall investigate the bids received and 3680
shall determine that the bureau and the secretary of state have 3681
made the certifications required by this section of the builder 3682
who has submitted the lowest and best bid. Within ten days of 3683
the completion of the investigation of the bids the board of 3684
county commissioners may award the lease agreement to the 3685
builder who has submitted the lowest and best bid and who has 3686
been certified by the bureau and secretary of state as required 3687
by this section. If bidding for the lease agreement has been 3688
conducted upon the basis of basic plans, specifications, bills 3689

of materials, and estimates of costs, upon the award to the 3690
builder, the board of county commissioners, or the builder with 3691
the approval of the board of county commissioners, shall appoint 3692
an architect or engineer licensed in Ohio to prepare such 3693
further detailed plans, specifications, and bills of materials 3694
as are required to construct the buildings, structures, and 3695
other improvements enumerated in the first paragraph of this 3696
section. The board of county commissioners may reject any bid. 3697
Where there is reason to believe there is collusion or 3698
combination among the bidders, the bids of those concerned 3699
therein shall be rejected. 3700

Sec. 313.12. (A) When any person dies as a result of 3701
criminal or other violent means, by casualty, by suicide, or in 3702
any suspicious or unusual manner, when any person, including a 3703
child under two years of age, dies suddenly when in apparent 3704
good health, or when any ~~mentally retarded person or~~ 3705
~~developmentally disabled person~~ with an intellectual or 3706
developmental disability dies regardless of the circumstances, 3707
the physician called in attendance, or any member of an 3708
ambulance service, emergency squad, or law enforcement agency 3709
who obtains knowledge thereof arising from the person's duties, 3710
shall immediately notify the office of the coroner of the known 3711
facts concerning the time, place, manner, and circumstances of 3712
the death, and any other information that is required pursuant 3713
to sections 313.01 to 313.22 of the Revised Code. In such cases, 3714
if a request is made for cremation, the funeral director called 3715
in attendance shall immediately notify the coroner. 3716

(B) As used in this section, "~~mentally retarded person~~ 3717
with an intellectual disability" and "~~developmentally disabled~~ 3718
person with a developmental disability" have the same meanings 3719
as in section 5123.01 of the Revised Code. 3720

Sec. 325.07. In addition to the compensation and salary 3721
provided by section 325.06 of the Revised Code, the board of 3722
county commissioners shall make allowances monthly to each 3723
sheriff for ~~his~~ the actual and necessary expenses incurred and 3724
expended by the sheriff in pursuing within or without the state 3725
or transporting persons accused or convicted of crimes and 3726
offenses, for any expenses incurred in conveying and 3727
transferring persons to or from any state hospital for the 3728
mentally ill, any institution for the ~~mentally retarded~~ 3729
intellectually disabled, any institution operated by the youth 3730
commission, children's homes, county homes, and all similar 3731
institutions, and for all expenses of maintaining transportation 3732
facilities necessary to the proper administration of the duties 3733
of ~~his~~ the sheriff's office. 3734

The board shall allow the sheriff ~~his~~ the actual 3735
transportation expense and telephone tolls expended by the 3736
sheriff in serving civil processes and subpoenaing witnesses in 3737
civil and criminal cases and before the grand jury, and it may 3738
allow any other necessary transportation expense for the proper 3739
administration of the duties of ~~his~~ the sheriff's office. Each 3740
sheriff shall file under oath a monthly report containing a 3741
full, accurate, and itemized account of all ~~his~~ the sheriff's 3742
actual and necessary expenses, including telephone tolls and any 3743
other transportation expense mentioned in this section, before 3744
the expense is allowed by the board. The statement shall show 3745
the number of the case, the court in which the service was 3746
rendered, and the point from which a transportation vehicle was 3747
used. 3748

For the purpose of making available to the sheriff funds 3749
necessary in the performance of the duties required ~~of him~~ under 3750
this section, the board may authorize, as an advancement to the 3751

sheriff, a sum not exceeding fifty per cent of ~~his~~ the sheriff's 3752
annual salary, from appropriations made to ~~him~~ the sheriff by 3753
the board for pursuing prisoners within or without the state or 3754
for transporting the prisoners to correctional institutions, or 3755
both, and for transporting persons to the institutions 3756
enumerated in this section, from which sum of money so advanced 3757
the necessary expenses for the transportation or pursuance may 3758
be paid by the sheriff. The county auditor shall draw ~~his~~ a 3759
warrant upon the county treasurer, in favor of the sheriff, as 3760
authorized by the board. 3761

After the itemized monthly report provided for in this 3762
section has been filed by the sheriff and approved and allowed 3763
by the board, the board shall restore to the fund the amount 3764
expended and disbursed by the sheriff, as approved and allowed 3765
by the board. 3766

Any unexpended balance of such fund remaining in the hands 3767
of the sheriff, at the end of each succeeding fiscal year, shall 3768
be returned and paid into the county treasury by the sheriff. 3769

Sec. 711.23. As used in this section, "incompetent person" 3770
means a person who is so mentally impaired as a result of a 3771
mental or physical illness or disability, or ~~mental retardation~~ 3772
intellectual disability, or as a result of chronic substance 3773
abuse, that the person is incapable of taking proper care of the 3774
person's self or property or fails to provide for the person's 3775
family or other persons for whom the person is charged by law to 3776
provide. 3777

If the court of common pleas is of the opinion that any 3778
person owning a lot in a plat, addition, or part thereof 3779
proposed to be vacated or altered, and not assenting to such 3780
vacation or alteration, will sustain damage thereby, it may 3781

proceed to hear proof in reference thereto, and may render 3782
judgment against the petitioners for such damages as it thinks 3783
proper and just, to be assessed ratably against the petitioners 3784
by the court, according to the value of the property owned by 3785
the petitioners as it stands taxed on the tax list of the 3786
county. When necessary, the court shall appoint a guardian ad 3787
litem for all minors or incompetent persons interested in the 3788
premises. The judgment of the court vacating such plat, 3789
addition, or parts thereof, shall be conditioned upon the 3790
payment of the damages thus assessed. 3791

Sec. 1751.01. As used in this chapter: 3792

(A) (1) "Basic health care services" means the following 3793
services when medically necessary: 3794

(a) Physician's services, except when such services are 3795
supplemental under division (B) of this section; 3796

(b) Inpatient hospital services; 3797

(c) Outpatient medical services; 3798

(d) Emergency health services; 3799

(e) Urgent care services; 3800

(f) Diagnostic laboratory services and diagnostic and 3801
therapeutic radiologic services; 3802

(g) Diagnostic and treatment services, other than 3803
prescription drug services, for biologically based mental 3804
illnesses; 3805

(h) Preventive health care services, including, but not 3806
limited to, voluntary family planning services, infertility 3807
services, periodic physical examinations, prenatal obstetrical 3808

care, and well-child care; 3809

(i) Routine patient care for patients enrolled in an 3810
eligible cancer clinical trial pursuant to section 3923.80 of 3811
the Revised Code. 3812

"Basic health care services" does not include experimental 3813
procedures. 3814

Except as provided by divisions (A) (2) and (3) of this 3815
section in connection with the offering of coverage for 3816
diagnostic and treatment services for biologically based mental 3817
illnesses, a health insuring corporation shall not offer 3818
coverage for a health care service, defined as a basic health 3819
care service by this division, unless it offers coverage for all 3820
listed basic health care services. However, this requirement 3821
does not apply to the coverage of beneficiaries enrolled in 3822
medicare pursuant to a medicare contract, or to the coverage of 3823
beneficiaries enrolled in the federal employee health benefits 3824
program pursuant to 5 U.S.C.A. 8905, or to the coverage of 3825
medicaid recipients, or to the coverage of beneficiaries under 3826
any federal health care program regulated by a federal 3827
regulatory body, or to the coverage of beneficiaries under any 3828
contract covering officers or employees of the state that has 3829
been entered into by the department of administrative services. 3830

(2) A health insuring corporation may offer coverage for 3831
diagnostic and treatment services for biologically based mental 3832
illnesses without offering coverage for all other basic health 3833
care services. A health insuring corporation may offer coverage 3834
for diagnostic and treatment services for biologically based 3835
mental illnesses alone or in combination with one or more 3836
supplemental health care services. However, a health insuring 3837
corporation that offers coverage for any other basic health care 3838

service shall offer coverage for diagnostic and treatment 3839
services for biologically based mental illnesses in combination 3840
with the offer of coverage for all other listed basic health 3841
care services. 3842

(3) A health insuring corporation that offers coverage for 3843
basic health care services is not required to offer coverage for 3844
diagnostic and treatment services for biologically based mental 3845
illnesses in combination with the offer of coverage for all 3846
other listed basic health care services if all of the following 3847
apply: 3848

(a) The health insuring corporation submits documentation 3849
certified by an independent member of the American academy of 3850
actuaries to the superintendent of insurance showing that 3851
incurred claims for diagnostic and treatment services for 3852
biologically based mental illnesses for a period of at least six 3853
months independently caused the health insuring corporation's 3854
costs for claims and administrative expenses for the coverage of 3855
basic health care services to increase by more than one per cent 3856
per year. 3857

(b) The health insuring corporation submits a signed 3858
letter from an independent member of the American academy of 3859
actuaries to the superintendent of insurance opining that the 3860
increase in costs described in division (A) (3) (a) of this 3861
section could reasonably justify an increase of more than one 3862
per cent in the annual premiums or rates charged by the health 3863
insuring corporation for the coverage of basic health care 3864
services. 3865

(c) The superintendent of insurance makes the following 3866
determinations from the documentation and opinion submitted 3867
pursuant to divisions (A) (3) (a) and (b) of this section: 3868

(i) Incurred claims for diagnostic and treatment services 3869
for biologically based mental illnesses for a period of at least 3870
six months independently caused the health insuring 3871
corporation's costs for claims and administrative expenses for 3872
the coverage of basic health care services to increase by more 3873
than one per cent per year. 3874

(ii) The increase in costs reasonably justifies an 3875
increase of more than one per cent in the annual premiums or 3876
rates charged by the health insuring corporation for the 3877
coverage of basic health care services. 3878

Any determination made by the superintendent under this 3879
division is subject to Chapter 119. of the Revised Code. 3880

(B) (1) "Supplemental health care services" means any 3881
health care services other than basic health care services that 3882
a health insuring corporation may offer, alone or in combination 3883
with either basic health care services or other supplemental 3884
health care services, and includes: 3885

(a) Services of facilities for intermediate or long-term 3886
care, or both; 3887

(b) Dental care services; 3888

(c) Vision care and optometric services including lenses 3889
and frames; 3890

(d) Podiatric care or foot care services; 3891

(e) Mental health services, excluding diagnostic and 3892
treatment services for biologically based mental illnesses; 3893

(f) Short-term outpatient evaluative and crisis- 3894
intervention mental health services; 3895

(g) Medical or psychological treatment and referral	3896
services for alcohol and drug abuse or addiction;	3897
(h) Home health services;	3898
(i) Prescription drug services;	3899
(j) Nursing services;	3900
(k) Services of a dietitian licensed under Chapter 4759.	3901
of the Revised Code;	3902
(l) Physical therapy services;	3903
(m) Chiropractic services;	3904
(n) Any other category of services approved by the	3905
superintendent of insurance.	3906
(2) If a health insuring corporation offers prescription	3907
drug services under this division, the coverage shall include	3908
prescription drug services for the treatment of biologically	3909
based mental illnesses on the same terms and conditions as other	3910
physical diseases and disorders.	3911
(C) "Specialty health care services" means one of the	3912
supplemental health care services listed in division (B) of this	3913
section, when provided by a health insuring corporation on an	3914
outpatient-only basis and not in combination with other	3915
supplemental health care services.	3916
(D) "Biologically based mental illnesses" means	3917
schizophrenia, schizoaffective disorder, major depressive	3918
disorder, bipolar disorder, paranoia and other psychotic	3919
disorders, obsessive-compulsive disorder, and panic disorder, as	3920
these terms are defined in the most recent edition of the	3921
diagnostic and statistical manual of mental disorders published	3922

by the American psychiatric association. 3923

(E) "Closed panel plan" means a health care plan that 3924
requires enrollees to use participating providers. 3925

(F) "Compensation" means remuneration for the provision of 3926
health care services, determined on other than a fee-for-service 3927
or discounted-fee-for-service basis. 3928

(G) "Contractual periodic prepayment" means the formula 3929
for determining the premium rate for all subscribers of a health 3930
insuring corporation. 3931

(H) "Corporation" means a corporation formed under Chapter 3932
1701. or 1702. of the Revised Code or the similar laws of 3933
another state. 3934

(I) "Emergency health services" means those health care 3935
services that must be available on a seven-days-per-week, 3936
twenty-four-hours-per-day basis in order to prevent jeopardy to 3937
an enrollee's health status that would occur if such services 3938
were not received as soon as possible, and includes, where 3939
appropriate, provisions for transportation and indemnity 3940
payments or service agreements for out-of-area coverage. 3941

(J) "Enrollee" means any natural person who is entitled to 3942
receive health care benefits provided by a health insuring 3943
corporation. 3944

(K) "Evidence of coverage" means any certificate, 3945
agreement, policy, or contract issued to a subscriber that sets 3946
out the coverage and other rights to which such person is 3947
entitled under a health care plan. 3948

(L) "Health care facility" means any facility, except a 3949
health care practitioner's office, that provides preventive, 3950

diagnostic, therapeutic, acute convalescent, rehabilitation, 3951
mental health, ~~mental retardation~~ intellectual disability, 3952
intermediate care, or skilled nursing services. 3953

(M) "Health care services" means basic, supplemental, and 3954
specialty health care services. 3955

(N) "Health delivery network" means any group of providers 3956
or health care facilities, or both, or any representative 3957
thereof, that have entered into an agreement to offer health 3958
care services in a panel rather than on an individual basis. 3959

(O) "Health insuring corporation" means a corporation, as 3960
defined in division (H) of this section, that, pursuant to a 3961
policy, contract, certificate, or agreement, pays for, 3962
reimburses, or provides, delivers, arranges for, or otherwise 3963
makes available, basic health care services, supplemental health 3964
care services, or specialty health care services, or a 3965
combination of basic health care services and either 3966
supplemental health care services or specialty health care 3967
services, through either an open panel plan or a closed panel 3968
plan. 3969

"Health insuring corporation" does not include a limited 3970
liability company formed pursuant to Chapter 1705. of the 3971
Revised Code, an insurer licensed under Title XXXIX of the 3972
Revised Code if that insurer offers only open panel plans under 3973
which all providers and health care facilities participating 3974
receive their compensation directly from the insurer, a 3975
corporation formed by or on behalf of a political subdivision or 3976
a department, office, or institution of the state, or a public 3977
entity formed by or on behalf of a board of county 3978
commissioners, a county board of developmental disabilities, an 3979
alcohol and drug addiction services board, a board of alcohol, 3980

drug addiction, and mental health services, or a community 3981
mental health board, as those terms are used in Chapters 340. 3982
and 5126. of the Revised Code. Except as provided by division 3983
(D) of section 1751.02 of the Revised Code, or as otherwise 3984
provided by law, no board, commission, agency, or other entity 3985
under the control of a political subdivision may accept 3986
insurance risk in providing for health care services. However, 3987
nothing in this division shall be construed as prohibiting such 3988
entities from purchasing the services of a health insuring 3989
corporation or a third-party administrator licensed under 3990
Chapter 3959. of the Revised Code. 3991

(P) "Intermediary organization" means a health delivery 3992
network or other entity that contracts with licensed health 3993
insuring corporations or self-insured employers, or both, to 3994
provide health care services, and that enters into contractual 3995
arrangements with other entities for the provision of health 3996
care services for the purpose of fulfilling the terms of its 3997
contracts with the health insuring corporations and self-insured 3998
employers. 3999

(Q) "Intermediate care" means residential care above the 4000
level of room and board for patients who require personal 4001
assistance and health-related services, but who do not require 4002
skilled nursing care. 4003

(R) "Medical record" means the personal information that 4004
relates to an individual's physical or mental condition, medical 4005
history, or medical treatment. 4006

(S) (1) "Open panel plan" means a health care plan that 4007
provides incentives for enrollees to use participating providers 4008
and that also allows enrollees to use providers that are not 4009
participating providers. 4010

(2) No health insuring corporation may offer an open panel 4011
plan, unless the health insuring corporation is also licensed as 4012
an insurer under Title XXXIX of the Revised Code, the health 4013
insuring corporation, on June 4, 1997, holds a certificate of 4014
authority or license to operate under Chapter 1736. or 1740. of 4015
the Revised Code, or an insurer licensed under Title XXXIX of 4016
the Revised Code is responsible for the out-of-network risk as 4017
evidenced by both an evidence of coverage filing under section 4018
1751.11 of the Revised Code and a policy and certificate filing 4019
under section 3923.02 of the Revised Code. 4020

(T) "Osteopathic hospital" means a hospital registered 4021
under section 3701.07 of the Revised Code that advocates 4022
osteopathic principles and the practice and perpetuation of 4023
osteopathic medicine by doing any of the following: 4024

(1) Maintaining a department or service of osteopathic 4025
medicine or a committee on the utilization of osteopathic 4026
principles and methods, under the supervision of an osteopathic 4027
physician; 4028

(2) Maintaining an active medical staff, the majority of 4029
which is comprised of osteopathic physicians; 4030

(3) Maintaining a medical staff executive committee that 4031
has osteopathic physicians as a majority of its members. 4032

(U) "Panel" means a group of providers or health care 4033
facilities that have joined together to deliver health care 4034
services through a contractual arrangement with a health 4035
insuring corporation, employer group, or other payor. 4036

(V) "Person" has the same meaning as in section 1.59 of 4037
the Revised Code, and, unless the context otherwise requires, 4038
includes any insurance company holding a certificate of 4039

authority under Title XXXIX of the Revised Code, any subsidiary 4040
and affiliate of an insurance company, and any government 4041
agency. 4042

(W) "Premium rate" means any set fee regularly paid by a 4043
subscriber to a health insuring corporation. A "premium rate" 4044
does not include a one-time membership fee, an annual 4045
administrative fee, or a nominal access fee, paid to a managed 4046
health care system under which the recipient of health care 4047
services remains solely responsible for any charges accessed for 4048
those services by the provider or health care facility. 4049

(X) "Primary care provider" means a provider that is 4050
designated by a health insuring corporation to supervise, 4051
coordinate, or provide initial care or continuing care to an 4052
enrollee, and that may be required by the health insuring 4053
corporation to initiate a referral for specialty care and to 4054
maintain supervision of the health care services rendered to the 4055
enrollee. 4056

(Y) "Provider" means any natural person or partnership of 4057
natural persons who are licensed, certified, accredited, or 4058
otherwise authorized in this state to furnish health care 4059
services, or any professional association organized under 4060
Chapter 1785. of the Revised Code, provided that nothing in this 4061
chapter or other provisions of law shall be construed to 4062
preclude a health insuring corporation, health care 4063
practitioner, or organized health care group associated with a 4064
health insuring corporation from employing certified nurse 4065
practitioners, certified nurse anesthetists, clinical nurse 4066
specialists, certified nurse-midwives, dietitians, physician 4067
assistants, dental assistants, dental hygienists, optometric 4068
technicians, or other allied health personnel who are licensed, 4069

certified, accredited, or otherwise authorized in this state to 4070
furnish health care services. 4071

(Z) "Provider sponsored organization" means a corporation, 4072
as defined in division (H) of this section, that is at least 4073
eighty per cent owned or controlled by one or more hospitals, as 4074
defined in section 3727.01 of the Revised Code, or one or more 4075
physicians licensed to practice medicine or surgery or 4076
osteopathic medicine and surgery under Chapter 4731. of the 4077
Revised Code, or any combination of such physicians and 4078
hospitals. Such control is presumed to exist if at least eighty 4079
per cent of the voting rights or governance rights of a provider 4080
sponsored organization are directly or indirectly owned, 4081
controlled, or otherwise held by any combination of the 4082
physicians and hospitals described in this division. 4083

(AA) "Solicitation document" means the written materials 4084
provided to prospective subscribers or enrollees, or both, and 4085
used for advertising and marketing to induce enrollment in the 4086
health care plans of a health insuring corporation. 4087

(BB) "Subscriber" means a person who is responsible for 4088
making payments to a health insuring corporation for 4089
participation in a health care plan, or an enrollee whose 4090
employment or other status is the basis of eligibility for 4091
enrollment in a health insuring corporation. 4092

(CC) "Urgent care services" means those health care 4093
services that are appropriately provided for an unforeseen 4094
condition of a kind that usually requires medical attention 4095
without delay but that does not pose a threat to the life, limb, 4096
or permanent health of the injured or ill person, and may 4097
include such health care services provided out of the health 4098
insuring corporation's approved service area pursuant to 4099

indemnity payments or service agreements. 4100

Sec. 1751.14. (A) Notwithstanding section 3901.71 of the 4101
Revised Code, any policy, contract, or agreement for health care 4102
services authorized by this chapter that is issued, delivered, 4103
or renewed in this state and that provides that coverage of an 4104
unmarried dependent child will terminate upon attainment of the 4105
limiting age for dependent children specified in the policy, 4106
contract, or agreement, shall also provide in substance both of 4107
the following: 4108

(1) Once an unmarried child has attained the limiting age 4109
for dependent children, as provided in the policy, contract, or 4110
agreement, upon the request of the subscriber, the health 4111
insuring corporation shall offer to cover the unmarried child 4112
until the child attains twenty-six years of age if all of the 4113
following are true: 4114

(a) The child is the natural child, stepchild, or adopted 4115
child of the subscriber. 4116

(b) The child is a resident of this state or a full-time 4117
student at an accredited public or private institution of higher 4118
education. 4119

(c) The child is not employed by an employer that offers 4120
any health benefit plan under which the child is eligible for 4121
coverage. 4122

(d) The child is not eligible for coverage under the 4123
medicaid program or the medicare program. 4124

(2) That attainment of the limiting age for dependent 4125
children shall not operate to terminate the coverage of a 4126
dependent child if the child is and continues to be both of the 4127
following: 4128

(a) Incapable of self-sustaining employment by reason of	4129
mental retardation <u>intellectual disability</u> or physical handicap;	4130
(b) Primarily dependent upon the subscriber for support	4131
and maintenance.	4132
(B) Proof of incapacity and dependence for purposes of	4133
division (A) (2) of this section shall be furnished to the health	4134
insuring corporation within thirty-one days of the child's	4135
attainment of the limiting age. Upon request, but not more	4136
frequently than annually, the health insuring corporation may	4137
require proof satisfactory to it of the continuance of such	4138
incapacity and dependency.	4139
(C) Nothing in this section shall do any of the following:	4140
(1) Require that any policy, contract, or agreement offer	4141
coverage for dependent children or provide coverage for an	4142
unmarried dependent child's children as dependents on the	4143
policy, contract, or agreement;	4144
(2) Require an employer to pay for any part of the premium	4145
for an unmarried dependent child that has attained the limiting	4146
age for dependents, as provided in the policy, contract, or	4147
agreement;	4148
(3) Require an employer to offer health insurance coverage	4149
to the dependents of any employee.	4150
(D) This section does not apply to any health insuring	4151
corporation policy, contract, or agreement offering only	4152
supplemental health care services or specialty health care	4153
services.	4154
(E) As used in this section, "health benefit plan" has the	4155
same meaning as in section 3924.01 of the Revised Code and also	4156

includes both of the following: 4157

(1) A public employee benefit plan; 4158

(2) A health benefit plan as regulated under the "Employee 4159
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 4160

Sec. 2101.17. The fees enumerated in this section shall be 4161
paid to the probate court from the county treasury upon the 4162
warrant of the county auditor which shall issue upon the 4163
certificate of the probate judge and shall be in full for all 4164
services rendered in the respective proceedings as follows: 4165

(A) For each hearing to determine if a person 4166
is a mentally ill individual subject to 4167
hospitalization when the person is committed 4168
to a state hospital or to relatives 4169
.....\$ 12.00; 4170

(B) When the person is discharged 4171
..... 7.00; 4172

(C) For order of return of a mentally ill person 4173
to a state hospital or removal therefrom 4174
..... 2.00; 4175

(D) For proceedings for committing a person to an 4176
institution for the ~~mentally retarded~~ 4177
intellectually disabled 4178
..... 10.00; 4179

(E) For habeas corpus proceedings when a person 4180
is confined under color of proceedings in a 4181
criminal case and is discharged 4182
..... 10.00; 4183

(F) When acting as a juvenile judge, for each 4184
case filed against a ~~delinquency delinquent,~~ 4185
dependent, unruly, or neglected child, or a 4186

juvenile traffic offender	4187
..... 5.00;	4188
(G) For proceedings to take a child from parents	4189
or other persons having control thereof	4190
..... 5.00.	4191
Sec. 2101.24. (A) (1) Except as otherwise provided by law,	4192
the probate court has exclusive jurisdiction:	4193
(a) To take the proof of wills and to admit to record	4194
authenticated copies of wills executed, proved, and allowed in	4195
the courts of any other state, territory, or country. If the	4196
probate judge is unavoidably absent, any judge of the court of	4197
common pleas may take proof of wills and approve bonds to be	4198
given, but the record of these acts shall be preserved in the	4199
usual records of the probate court.	4200
(b) To grant and revoke letters testamentary and of	4201
administration;	4202
(c) To direct and control the conduct and settle the	4203
accounts of executors and administrators and order the	4204
distribution of estates;	4205
(d) To appoint the attorney general to serve as the	4206
administrator of an estate pursuant to section 2113.06 of the	4207
Revised Code;	4208
(e) To appoint and remove guardians, conservators, and	4209
testamentary trustees, direct and control their conduct, and	4210
settle their accounts;	4211
(f) To grant marriage licenses;	4212
(g) To make inquests respecting persons who are so	4213
mentally impaired as a result of a mental or physical illness or	4214

disability, or ~~mental retardation~~ intellectual disability, or as 4215
a result of chronic substance abuse, that they are unable to 4216
manage their property and affairs effectively, subject to 4217
guardianship; 4218

(h) To qualify assignees, appoint and qualify trustees and 4219
commissioners of insolvents, control their conduct, and settle 4220
their accounts; 4221

(i) To authorize the sale of lands, equitable estates, or 4222
interests in lands or equitable estates, and the assignments of 4223
inchoate dower in such cases of sale, on petition by executors, 4224
administrators, and guardians; 4225

(j) To authorize the completion of real property contracts 4226
on petition of executors and administrators; 4227

(k) To construe wills; 4228

(l) To render declaratory judgments, including, but not 4229
limited to, those rendered pursuant to section 2107.084 of the 4230
Revised Code; 4231

(m) To direct and control the conduct of fiduciaries and 4232
settle their accounts; 4233

(n) To authorize the sale or lease of any estate created 4234
by will if the estate is held in trust, on petition by the 4235
trustee; 4236

(o) To terminate a testamentary trust in any case in which 4237
a court of equity may do so; 4238

(p) To hear and determine actions to contest the validity 4239
of wills; 4240

(q) To make a determination of the presumption of death of 4241

missing persons and to adjudicate the property rights and	4242
obligations of all parties affected by the presumption;	4243
(r) To hear and determine an action commenced pursuant to	4244
section 3107.41 of the Revised Code to obtain the release of	4245
information pertaining to the birth name of the adopted person	4246
and the identity of the adopted person's biological parents and	4247
biological siblings;	4248
(s) To act for and issue orders regarding wards pursuant	4249
to section 2111.50 of the Revised Code;	4250
(t) To hear and determine actions against sureties on the	4251
bonds of fiduciaries appointed by the probate court;	4252
(u) To hear and determine actions involving informed	4253
consent for medication of persons hospitalized pursuant to	4254
section 5122.141 or 5122.15 of the Revised Code;	4255
(v) To hear and determine actions relating to durable	4256
powers of attorney for health care as described in division (D)	4257
of section 1337.16 of the Revised Code;	4258
(w) To hear and determine actions commenced by objecting	4259
individuals, in accordance with section 2133.05 of the Revised	4260
Code;	4261
(x) To hear and determine complaints that pertain to the	4262
use or continuation, or the withholding or withdrawal, of life-	4263
sustaining treatment in connection with certain patients	4264
allegedly in a terminal condition or in a permanently	4265
unconscious state pursuant to division (E) of section 2133.08 of	4266
the Revised Code, in accordance with that division;	4267
(y) To hear and determine applications that pertain to the	4268
withholding or withdrawal of nutrition and hydration from	4269

certain patients allegedly in a permanently unconscious state 4270
pursuant to section 2133.09 of the Revised Code, in accordance 4271
with that section; 4272

(z) To hear and determine applications of attending 4273
physicians in accordance with division (B) of section 2133.15 of 4274
the Revised Code; 4275

(aa) To hear and determine actions relative to the use or 4276
continuation of comfort care in connection with certain 4277
principals under durable powers of attorney for health care, 4278
declarants under declarations, or patients in accordance with 4279
division (E) of either section 1337.16 or 2133.12 of the Revised 4280
Code; 4281

(bb) To hear and determine applications for an order 4282
relieving an estate from administration under section 2113.03 of 4283
the Revised Code; 4284

(cc) To hear and determine applications for an order 4285
granting a summary release from administration under section 4286
2113.031 of the Revised Code; 4287

(dd) To hear and determine actions relating to the 4288
exercise of the right of disposition, in accordance with section 4289
2108.90 of the Revised Code; 4290

(ee) To hear and determine actions relating to the 4291
disinterment and reinterment of human remains under section 4292
517.23 of the Revised Code; 4293

(ff) To hear and determine petitions for an order for 4294
treatment of a person suffering from alcohol and other drug 4295
abuse filed under section 5119.93 of the Revised Code and to 4296
order treatment of that nature in accordance with, and take 4297
other actions afforded to the court under, sections 5119.90 to 4298

5119.98 of the Revised Code. 4299

(2) In addition to the exclusive jurisdiction conferred 4300
upon the probate court by division (A) (1) of this section, the 4301
probate court shall have exclusive jurisdiction over a 4302
particular subject matter if both of the following apply: 4303

(a) Another section of the Revised Code expressly confers 4304
jurisdiction over that subject matter upon the probate court. 4305

(b) No section of the Revised Code expressly confers 4306
jurisdiction over that subject matter upon any other court or 4307
agency. 4308

(B) (1) The probate court has concurrent jurisdiction with, 4309
and the same powers at law and in equity as, the general 4310
division of the court of common pleas to issue writs and orders, 4311
and to hear and determine actions as follows: 4312

(a) If jurisdiction relative to a particular subject 4313
matter is stated to be concurrent in a section of the Revised 4314
Code or has been construed by judicial decision to be 4315
concurrent, any action that involves that subject matter; 4316

(b) Any action that involves an inter vivos trust; a trust 4317
created pursuant to section 5815.28 of the Revised Code; a 4318
charitable trust or foundation; subject to divisions (A) (1) (u) 4319
and (z) of this section, a power of attorney, including, but not 4320
limited to, a durable power of attorney; the medical treatment 4321
of a competent adult; or a writ of habeas corpus; 4322

(c) Subject to section 2101.31 of the Revised Code, any 4323
action with respect to a probate estate, guardianship, trust, or 4324
post-death dispute that involves any of the following: 4325

(i) A designation or removal of a beneficiary of a life 4326

insurance policy, annuity contract, retirement plan, brokerage 4327
account, security account, bank account, real property, or 4328
tangible personal property; 4329

(ii) A designation or removal of a payable-on-death 4330
beneficiary or transfer-on-death beneficiary; 4331

(iii) A change in the title to any asset involving a joint 4332
and survivorship interest; 4333

(iv) An alleged gift; 4334

(v) The passing of assets upon the death of an individual 4335
otherwise than by will, intestate succession, or trust. 4336

(2) Any action that involves a concurrent jurisdiction 4337
subject matter and that is before the probate court may be 4338
transferred by the probate court, on its order, to the general 4339
division of the court of common pleas. 4340

(C) The probate court has plenary power at law and in 4341
equity to dispose fully of any matter that is properly before 4342
the court, unless the power is expressly otherwise limited or 4343
denied by a section of the Revised Code. 4344

(D) The jurisdiction acquired by a probate court over a 4345
matter or proceeding is exclusive of that of any other probate 4346
court, except when otherwise provided by law. 4347

Sec. 2108.521. (A) If a ~~mentally retarded~~ an 4348
intellectually disabled person or a developmentally disabled 4349
person dies, if the department of developmental disabilities or 4350
a county board of developmental disabilities has a good faith 4351
reason to believe that the deceased person's death occurred 4352
under suspicious circumstances, if the coroner was apprised of 4353
the circumstances of the death, and if the coroner after being 4354

so apprised of the circumstances declines to conduct an autopsy, 4355
the department or the board may file a petition in a court of 4356
common pleas seeking an order authorizing an autopsy or post- 4357
mortem examination under this section. 4358

(B) Upon the filing of a petition under division (A) of 4359
this section, the court may conduct, but is not required to 4360
conduct, a hearing on the petition. The court may determine 4361
whether to grant the petition without a hearing. The department 4362
or board, and all other interested parties, may submit 4363
information and statements to the court that are relevant to the 4364
petition, and, if the court conducts a hearing, may present 4365
evidence and testimony at the hearing. The court shall order the 4366
requested autopsy or post-mortem examination if it finds that, 4367
under the circumstances, the department or board has 4368
demonstrated a need for the autopsy or post-mortem examination. 4369
The court shall order an autopsy or post-mortem examination in 4370
the circumstances specified in this division regardless of 4371
whether any consent has been given, or has been given and 4372
withdrawn, under section 2108.50 of the Revised Code, and 4373
regardless of whether any information was presented to the 4374
coroner pursuant to section 313.131 of the Revised Code or to 4375
the court under this section regarding an autopsy being contrary 4376
to the deceased person's religious beliefs. 4377

(C) An autopsy or post-mortem examination ordered under 4378
this section may be performed upon the body of the deceased 4379
person by a licensed physician or surgeon. The court may 4380
identify in the order the person who is to perform the autopsy 4381
or post-mortem examination. If an autopsy or post-mortem 4382
examination is ordered under this section, the department or 4383
board that requested the autopsy or examination shall pay the 4384
physician or surgeon who performs the autopsy or examination for 4385

costs and expenses incurred in performing the autopsy or 4386
examination. 4387

Sec. 2109.01. "Fiduciary," as used in Chapters 2101. to 4388
2131. of the Revised Code, means any person, other than an 4389
assignee or trustee for an insolvent debtor or a guardian under 4390
sections 5905.01 to 5905.19 of the Revised Code, appointed by 4391
and accountable to the probate court and acting in a fiduciary 4392
capacity for any person, or charged with duties in relation to 4393
any property, interest, trust, or estate for the benefit of 4394
another; and includes an agency under contract with the 4395
department of developmental disabilities for the provision of 4396
protective service under sections 5123.55 to 5123.59 of the 4397
Revised Code, appointed by and accountable to the probate court 4398
as guardian or trustee with respect to ~~mentally retarded~~ 4399
intellectually disabled or developmentally disabled persons. 4400

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 4401
Revised Code: 4402

(A) "Guardian," other than a guardian under sections 4403
5905.01 to 5905.19 of the Revised Code, means any person, 4404
association, or corporation appointed by the probate court to 4405
have the care and management of the person, the estate, or both 4406
of an incompetent or minor. When applicable, "guardian" 4407
includes, but is not limited to, a limited guardian, an interim 4408
guardian, a standby guardian, and an emergency guardian 4409
appointed pursuant to division (B) of section 2111.02 of the 4410
Revised Code. "Guardian" also includes an agency under contract 4411
with the department of developmental disabilities for the 4412
provision of protective service under sections 5123.55 to 4413
5123.59 of the Revised Code when appointed by the probate court 4414
to have the care and management of the person of an incompetent. 4415

(B) "Ward" means any person for whom a guardian is acting 4416
or for whom the probate court is acting pursuant to section 4417
2111.50 of the Revised Code. 4418

(C) "Resident guardian" means a guardian appointed by a 4419
probate court to have the care and management of property in 4420
this state that belongs to a nonresident ward. 4421

(D) "Incompetent" means any person who is so mentally 4422
impaired as a result of a mental or physical illness or 4423
disability, or ~~mental retardation~~ intellectual disability, or as 4424
a result of chronic substance abuse, that the person is 4425
incapable of taking proper care of the person's self or property 4426
or fails to provide for the person's family or other persons for 4427
whom the person is charged by law to provide, or any person 4428
confined to a correctional institution within this state. 4429

(E) "Next of kin" means any person who would be entitled 4430
to inherit from a ward under Chapter 2105. of the Revised Code 4431
if the ward dies intestate. 4432

(F) "Conservator" means a conservator appointed by the 4433
probate court in an order of conservatorship issued pursuant to 4434
section 2111.021 of the Revised Code. 4435

(G) "Parent" means a natural parent or adoptive parent of 4436
a minor child whose parental rights and responsibilities have 4437
not been terminated by a juvenile court or another court. 4438

(H) "Financial harm" means impairment of an individual's 4439
financial assets by unlawfully obtaining or exerting control 4440
over the individual's real or personal property in any of the 4441
following ways: 4442

(1) Without the consent of the individual or the person 4443
authorized to give consent on the individual's behalf; 4444

(2) Beyond the scope of the express or implied consent of 4445
the individual or the person authorized to give consent on the 4446
individual's behalf; 4447

(3) By deception; 4448

(4) By threat; 4449

(5) By intimidation; 4450

(6) By fraud; 4451

(7) By undue influence. 4452

Sec. 2111.10. As used in this section, "~~mentally retarded-~~ 4453
person with an intellectual disability" and "~~developmentally-~~ 4454
~~disabled person with a developmental disability~~" have the same 4455
meanings as in section 5123.01 of the Revised Code. 4456

Any appointment of a corporation as guardian shall apply 4457
to the estate only and not to the person, except that a 4458
nonprofit corporation organized under the laws of this state and 4459
entitled to tax exempt status under section 501(a) of the 4460
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 4461
501, as amended, that has a contract with the department of 4462
developmental disabilities to provide protective services may be 4463
appointed as a guardian of the person of a ~~mentally retarded or~~ 4464
~~developmentally disabled person~~ with an intellectual or 4465
developmental disability and may serve as guardian pursuant to 4466
sections 5123.55 to 5123.59 of the Revised Code. 4467

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 4468
section, the guardian of an incompetent person shall file a 4469
guardian's report with the court two years after the date of the 4470
issuance of the guardian's letters of appointment and biennially 4471
after that time, or at any other time upon the motion or a rule 4472

of the probate court. The report shall be in a form prescribed 4473
by the court and shall include all of the following. 4474

(a) The present address of the place of residence of the 4475
ward; 4476

(b) The present address of the guardian; 4477

(c) If the place of residence of the ward is not the 4478
ward's personal home, the name of the facility at which the ward 4479
resides and the name of the person responsible for the ward's 4480
care; 4481

(d) The approximate number of times during the period 4482
covered by the report that the guardian has had contact with the 4483
ward, the nature of those contacts, and the date that the ward 4484
was last seen by the guardian; 4485

(e) Any major changes in the physical or mental condition 4486
of the ward observed by the guardian; 4487

(f) The opinion of the guardian as to the necessity for 4488
the continuation of the guardianship; 4489

(g) The opinion of the guardian as to the adequacy of the 4490
present care of the ward; 4491

(h) The date that the ward was last examined or otherwise 4492
seen by a physician and the purpose of that visit; 4493

(i) A statement by a licensed physician, licensed clinical 4494
psychologist, licensed independent social worker, licensed 4495
professional clinical counselor, or ~~mental retardation~~ 4496
intellectual disability team that has evaluated or examined the 4497
ward within three months prior to the date of the report as to 4498
the need for continuing the guardianship. 4499

(2) The court shall review a report filed pursuant to 4500
division (A) (1) of this section to determine if a continued 4501
necessity for the guardianship exists. The court may direct a 4502
probate court investigator to verify aspects of the report. 4503

(3) Division (A) (1) of this section applies to guardians 4504
appointed prior to, as well as on or after, the effective date 4505
of this section. A guardian appointed prior to that date shall 4506
file the first report in accordance with any applicable court 4507
rule or motion, or, in the absence of such a rule or motion, 4508
upon the next occurring date on which a report would have been 4509
due if division (A) (1) of this section had been in effect on the 4510
date of appointment as guardian, and shall file all subsequently 4511
due reports biennially after that time. 4512

(B) If, upon review of any report required by division (A) 4513
(1) of this section, the court finds that it is necessary to 4514
intervene in a guardianship, the court shall take any action 4515
that it determines is necessary, including, but not limited to, 4516
terminating or modifying the guardianship. 4517

(C) Except as provided in this division, for any 4518
guardianship, upon written request by the ward, the ward's 4519
attorney, or any other interested party made at any time after 4520
the expiration of one hundred twenty days from the date of the 4521
original appointment of the guardian, a hearing shall be held in 4522
accordance with section 2111.02 of the Revised Code to evaluate 4523
the continued necessity of the guardianship. Upon written 4524
request, the court shall conduct a minimum of one hearing under 4525
this division in the calendar year in which the guardian was 4526
appointed, and upon written request, shall conduct a minimum of 4527
one hearing in each of the following calendar years. Upon its 4528
own motion or upon written request, the court may, in its 4529

discretion, conduct a hearing within the first one hundred 4530
twenty days after appointment of the guardian or conduct more 4531
than one hearing in a calendar year. If the ward alleges 4532
competence, the burden of proving incompetence shall be upon the 4533
applicant for guardianship or the guardian, by clear and 4534
convincing evidence. 4535

Sec. 2151.011. (A) As used in the Revised Code: 4536

(1) "Juvenile court" means whichever of the following is 4537
applicable that has jurisdiction under this chapter and Chapter 4538
2152. of the Revised Code: 4539

(a) The division of the court of common pleas specified in 4540
section 2101.022 or 2301.03 of the Revised Code as having 4541
jurisdiction under this chapter and Chapter 2152. of the Revised 4542
Code or as being the juvenile division or the juvenile division 4543
combined with one or more other divisions; 4544

(b) The juvenile court of Cuyahoga county or Hamilton 4545
county that is separately and independently created by section 4546
2151.08 or Chapter 2153. of the Revised Code and that has 4547
jurisdiction under this chapter and Chapter 2152. of the Revised 4548
Code; 4549

(c) If division (A) (1) (a) or (b) of this section does not 4550
apply, the probate division of the court of common pleas. 4551

(2) "Juvenile judge" means a judge of a court having 4552
jurisdiction under this chapter. 4553

(3) "Private child placing agency" means any association, 4554
as defined in section 5103.02 of the Revised Code, that is 4555
certified under section 5103.03 of the Revised Code to accept 4556
temporary, permanent, or legal custody of children and place the 4557
children for either foster care or adoption. 4558

(4) "Private noncustodial agency" means any person, 4559
organization, association, or society certified by the 4560
department of job and family services that does not accept 4561
temporary or permanent legal custody of children, that is 4562
privately operated in this state, and that does one or more of 4563
the following: 4564

(a) Receives and cares for children for two or more 4565
consecutive weeks; 4566

(b) Participates in the placement of children in certified 4567
foster homes; 4568

(c) Provides adoption services in conjunction with a 4569
public children services agency or private child placing agency. 4570

(B) As used in this chapter: 4571

(1) "Adequate parental care" means the provision by a 4572
child's parent or parents, guardian, or custodian of adequate 4573
food, clothing, and shelter to ensure the child's health and 4574
physical safety and the provision by a child's parent or parents 4575
of specialized services warranted by the child's physical or 4576
mental needs. 4577

(2) "Adult" means an individual who is eighteen years of 4578
age or older. 4579

(3) "Agreement for temporary custody" means a voluntary 4580
agreement authorized by section 5103.15 of the Revised Code that 4581
transfers the temporary custody of a child to a public children 4582
services agency or a private child placing agency. 4583

(4) "Alternative response" means the public children 4584
services agency's response to a report of child abuse or neglect 4585
that engages the family in a comprehensive evaluation of child 4586

safety, risk of subsequent harm, and family strengths and needs 4587
and that does not include a determination as to whether child 4588
abuse or neglect occurred. 4589

(5) "Certified foster home" means a foster home, as 4590
defined in section 5103.02 of the Revised Code, certified under 4591
section 5103.03 of the Revised Code. 4592

(6) "Child" means a person who is under eighteen years of 4593
age, except that the juvenile court has jurisdiction over any 4594
person who is adjudicated an unruly child prior to attaining 4595
eighteen years of age until the person attains twenty-one years 4596
of age, and, for purposes of that jurisdiction related to that 4597
adjudication, a person who is so adjudicated an unruly child 4598
shall be deemed a "child" until the person attains twenty-one 4599
years of age. 4600

(7) "Child day camp," "child care," "child day-care 4601
center," "part-time child day-care center," "type A family day- 4602
care home," "licensed type B family day-care home," "type B 4603
family day-care home," "administrator of a child day-care 4604
center," "administrator of a type A family day-care home," and 4605
"in-home aide" have the same meanings as in section 5104.01 of 4606
the Revised Code. 4607

(8) "Child care provider" means an individual who is a 4608
child-care staff member or administrator of a child day-care 4609
center, a type A family day-care home, or a type B family day- 4610
care home, or an in-home aide or an individual who is licensed, 4611
is regulated, is approved, operates under the direction of, or 4612
otherwise is certified by the department of job and family 4613
services, department of developmental disabilities, or the early 4614
childhood programs of the department of education. 4615

- (9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code. 4616
4617
- (10) "Commit" means to vest custody as ordered by the court. 4618
4619
- (11) "Counseling" includes both of the following: 4620
- (a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child. 4621
4622
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- (b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling. 4627
4628
4629
4630
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4632
- (12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child. 4633
4634
4635
4636
- (13) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. 4637
4638
- (14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children. 4639
4640
4641
4642
- (15) "Developmental disability" has the same meaning as in 4643

section 5123.01 of the Revised Code. 4644

(16) "Differential response approach" means an approach 4645
that a public children services agency may use to respond to 4646
accepted reports of child abuse or neglect with either an 4647
alternative response or a traditional response. 4648

(17) "Foster caregiver" has the same meaning as in section 4649
5103.02 of the Revised Code. 4650

(18) "Guardian" means a person, association, or 4651
corporation that is granted authority by a probate court 4652
pursuant to Chapter 2111. of the Revised Code to exercise 4653
parental rights over a child to the extent provided in the 4654
court's order and subject to the residual parental rights of the 4655
child's parents. 4656

(19) "Habitual truant" means any child of compulsory 4657
school age who is absent without legitimate excuse for absence 4658
from the public school the child is supposed to attend for five 4659
or more consecutive school days, seven or more school days in 4660
one school month, or twelve or more school days in a school 4661
year. 4662

(20) "Juvenile traffic offender" has the same meaning as 4663
in section 2152.02 of the Revised Code. 4664

(21) "Legal custody" means a legal status that vests in 4665
the custodian the right to have physical care and control of the 4666
child and to determine where and with whom the child shall live, 4667
and the right and duty to protect, train, and discipline the 4668
child and to provide the child with food, shelter, education, 4669
and medical care, all subject to any residual parental rights, 4670
privileges, and responsibilities. An individual granted legal 4671
custody shall exercise the rights and responsibilities 4672

personally unless otherwise authorized by any section of the Revised Code or by the court.

(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(23) "Mental illness" and "mentally ill person subject to court order" have the same meanings as in section 5122.01 of the Revised Code.

(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

~~(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.~~

~~(26) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.~~

~~(27)~~(26) "Of compulsory school age" has the same meaning 4701
as in section 3321.01 of the Revised Code. 4702

~~(28)~~(27) "Organization" means any institution, public, 4703
semipublic, or private, and any private association, society, or 4704
agency located or operating in the state, incorporated or 4705
unincorporated, having among its functions the furnishing of 4706
protective services or care for children, or the placement of 4707
children in certified foster homes or elsewhere. 4708

~~(29)~~(28) "Out-of-home care" means detention facilities, 4709
shelter facilities, certified children's crisis care facilities, 4710
certified foster homes, placement in a prospective adoptive home 4711
prior to the issuance of a final decree of adoption, 4712
organizations, certified organizations, child day-care centers, 4713
type A family day-care homes, type B family day-care homes, 4714
child care provided by in-home aides, group home providers, 4715
group homes, institutions, state institutions, residential 4716
facilities, residential care facilities, residential camps, day 4717
camps, public schools, chartered nonpublic schools, educational 4718
service centers, hospitals, and medical clinics that are 4719
responsible for the care, physical custody, or control of 4720
children. 4721

~~(30)~~(29) "Out-of-home care child abuse" means any of the 4722
following when committed by a person responsible for the care of 4723
a child in out-of-home care: 4724

(a) Engaging in sexual activity with a child in the 4725
person's care; 4726

(b) Denial to a child, as a means of punishment, of proper 4727
or necessary subsistence, education, medical care, or other care 4728
necessary for a child's health; 4729

(c) Use of restraint procedures on a child that cause injury or pain;	4730 4731
(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;	4732 4733 4734
(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.	4735 4736 4737 4738 4739 4740
(31) -(30) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:	4741 4742 4743
(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	4744 4745 4746
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	4747 4748 4749 4750
(c) Failure to develop a process for all of the following:	4751
(i) Administration of prescription drugs or psychotropic drugs for the child;	4752 4753
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	4754 4755
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use	4756 4757

of the drug. 4758

(d) Failure to provide proper or necessary subsistence, 4759
education, medical care, or other individualized care necessary 4760
for the health or well-being of the child; 4761

(e) Confinement of the child to a locked room without 4762
monitoring by staff; 4763

(f) Failure to provide ongoing security for all 4764
prescription and nonprescription medication; 4765

(g) Isolation of a child for a period of time when there 4766
is substantial risk that the isolation, if continued, will 4767
impair or retard the mental health or physical well-being of the 4768
child. 4769

~~(32)~~-(31) "Permanent custody" means a legal status that 4770
vests in a public children services agency or a private child 4771
placing agency, all parental rights, duties, and obligations, 4772
including the right to consent to adoption, and divests the 4773
natural parents or adoptive parents of all parental rights, 4774
privileges, and obligations, including all residual rights and 4775
obligations. 4776

~~(33)~~-(32) "Permanent surrender" means the act of the 4777
parents or, if a child has only one parent, of the parent of a 4778
child, by a voluntary agreement authorized by section 5103.15 of 4779
the Revised Code, to transfer the permanent custody of the child 4780
to a public children services agency or a private child placing 4781
agency. 4782

~~(34)~~-(33) "Person" means an individual, association, 4783
corporation, or partnership and the state or any of its 4784
political subdivisions, departments, or agencies. 4785

(35) -(34) "Person responsible for a child's care in out-	4786
of-home care" means any of the following:	4787
(a) Any foster caregiver, in-home aide, or provider;	4788
(b) Any administrator, employee, or agent of any of the	4789
following: a public or private detention facility; shelter	4790
facility; certified children's crisis care facility;	4791
organization; certified organization; child day-care center;	4792
type A family day-care home; licensed type B family day-care	4793
home; group home; institution; state institution; residential	4794
facility; residential care facility; residential camp; day camp;	4795
school district; community school; chartered nonpublic school;	4796
educational service center; hospital; or medical clinic;	4797
(c) Any person who supervises or coaches children as part	4798
of an extracurricular activity sponsored by a school district,	4799
public school, or chartered nonpublic school;	4800
(d) Any other person who performs a similar function with	4801
respect to, or has a similar relationship to, children.	4802
<u>(35) "Person with an intellectual disability" has the same</u>	4803
<u>meaning as in section 5123.01 of the Revised Code.</u>	4804
(36) "Physically impaired" means having one or more of the	4805
following conditions that substantially limit one or more of an	4806
individual's major life activities, including self-care,	4807
receptive and expressive language, learning, mobility, and self-	4808
direction:	4809
(a) A substantial impairment of vision, speech, or	4810
hearing;	4811
(b) A congenital orthopedic impairment;	4812
(c) An orthopedic impairment caused by disease, rheumatic	4813

fever or any other similar chronic or acute health problem, or 4814
amputation or another similar cause. 4815

(37) "Placement for adoption" means the arrangement by a 4816
public children services agency or a private child placing 4817
agency with a person for the care and adoption by that person of 4818
a child of whom the agency has permanent custody. 4819

(38) "Placement in foster care" means the arrangement by a 4820
public children services agency or a private child placing 4821
agency for the out-of-home care of a child of whom the agency 4822
has temporary custody or permanent custody. 4823

(39) "Planned permanent living arrangement" means an order 4824
of a juvenile court pursuant to which both of the following 4825
apply: 4826

(a) The court gives legal custody of a child to a public 4827
children services agency or a private child placing agency 4828
without the termination of parental rights. 4829

(b) The order permits the agency to make an appropriate 4830
placement of the child and to enter into a written agreement 4831
with a foster care provider or with another person or agency 4832
with whom the child is placed. 4833

(40) "Practice of social work" and "practice of 4834
professional counseling" have the same meanings as in section 4835
4757.01 of the Revised Code. 4836

(41) "Sanction, service, or condition" means a sanction, 4837
service, or condition created by court order following an 4838
adjudication that a child is an unruly child that is described 4839
in division (A) (4) of section 2152.19 of the Revised Code. 4840

(42) "Protective supervision" means an order of 4841

disposition pursuant to which the court permits an abused, 4842
neglected, dependent, or unruly child to remain in the custody 4843
of the child's parents, guardian, or custodian and stay in the 4844
child's home, subject to any conditions and limitations upon the 4845
child, the child's parents, guardian, or custodian, or any other 4846
person that the court prescribes, including supervision as 4847
directed by the court for the protection of the child. 4848

(43) "Psychiatrist" has the same meaning as in section 4849
5122.01 of the Revised Code. 4850

(44) "Psychologist" has the same meaning as in section 4851
4732.01 of the Revised Code. 4852

(45) "Residential camp" means a program in which the care, 4853
physical custody, or control of children is accepted overnight 4854
for recreational or recreational and educational purposes. 4855

(46) "Residential care facility" means an institution, 4856
residence, or facility that is licensed by the department of 4857
mental health and addiction services under section 5119.34 of 4858
the Revised Code and that provides care for a child. 4859

(47) "Residential facility" means a home or facility that 4860
is licensed by the department of developmental disabilities 4861
under section 5123.19 of the Revised Code and in which a child 4862
with a developmental disability resides. 4863

(48) "Residual parental rights, privileges, and 4864
responsibilities" means those rights, privileges, and 4865
responsibilities remaining with the natural parent after the 4866
transfer of legal custody of the child, including, but not 4867
necessarily limited to, the privilege of reasonable visitation, 4868
consent to adoption, the privilege to determine the child's 4869
religious affiliation, and the responsibility for support. 4870

(49) "School day" means the school day established by the board of education of the applicable school district pursuant to section 3313.481 of the Revised Code.

(50) "School year" has the same meaning as in section 3313.62 of the Revised Code.

(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be 4900
presumed abandoned when the parents of the child have failed to 4901
visit or maintain contact with the child for more than ninety 4902
days, regardless of whether the parents resume contact with the 4903
child after that period of ninety days. 4904

Sec. 2151.281. (A) The court shall appoint a guardian ad 4905
litem, subject to rules adopted by the supreme court, to protect 4906
the interest of a child in any proceeding concerning an alleged 4907
or adjudicated delinquent child or unruly child when either of 4908
the following applies: 4909

(1) The child has no parent, guardian, or legal custodian. 4910

(2) The court finds that there is a conflict of interest 4911
between the child and the child's parent, guardian, or legal 4912
custodian. 4913

(B) (1) Except as provided in division (K) of this section, 4914
the court shall appoint a guardian ad litem, subject to rules 4915
adopted by the supreme court, to protect the interest of a child 4916
in any proceeding concerning an alleged abused or neglected 4917
child and in any proceeding held pursuant to section 2151.414 of 4918
the Revised Code. The guardian ad litem so appointed shall not 4919
be the attorney responsible for presenting the evidence alleging 4920
that the child is an abused or neglected child and shall not be 4921
an employee of any party in the proceeding. 4922

(2) Except in any proceeding concerning a dependent child 4923
involving the permanent custody of an infant under the age of 4924
six months for the sole purpose of placement for adoption by a 4925
private child placing agency, the court shall appoint a guardian 4926
ad litem, subject to rules adopted by the supreme court, to 4927
protect the interest of a child in any proceeding concerning an 4928

alleged dependent child if any of the following applies: 4929

(a) The parent of the child appears to be mentally 4930
incompetent or is under eighteen years of age. 4931

(b) There is a conflict of interest between the child and 4932
the child's parents, guardian, or custodian. 4933

(c) The court believes that the parent of the child is not 4934
capable of representing the best interest of the child. 4935

(3) Except in any proceeding concerning a dependent child 4936
involving the permanent custody of an infant under the age of 4937
six months for the sole purpose of placement for adoption by a 4938
private child placing agency, the court may appoint a guardian 4939
ad litem, subject to rules adopted by the supreme court, to 4940
protect the interest of the child in any other proceeding 4941
concerning an alleged dependent child. 4942

(4) The guardian ad litem appointed for an alleged or 4943
adjudicated abused or neglected child may bring a civil action 4944
against any person who is required by division (A)(1) or (4) of 4945
section 2151.421 of the Revised Code to file a report of child 4946
abuse or child neglect that is known or reasonably suspected or 4947
believed to have occurred if that person knows, or has 4948
reasonable cause to suspect or believe based on facts that would 4949
cause a reasonable person in a similar position to suspect or 4950
believe, as applicable, that the child for whom the guardian ad 4951
litem is appointed is the subject of child abuse or child 4952
neglect and does not file the required report and if the child 4953
suffers any injury or harm as a result of the child abuse or 4954
child neglect that is known or reasonably suspected or believed 4955
to have occurred or suffers additional injury or harm after the 4956
failure to file the report. 4957

(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, subject to rules adopted by the supreme court.

(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) Except as provided in division (K) of this section, in any case in which a guardian ad litem is to be appointed for an alleged or adjudicated abused, neglected, or dependent child or in any case involving 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 4988
possible after the complaint is filed, the request for an 4989
extension of the temporary custody agreement is filed with the 4990
court, or the request for court approval of the permanent 4991
custody agreement is filed. The guardian ad litem or the 4992
guardian ad litem's replacement shall continue to serve until 4993
any of the following occur: 4994

(1) The complaint is dismissed or the request for an 4995
extension of a temporary custody agreement or for court approval 4996
of the permanent custody agreement is withdrawn or denied; 4997

(2) All dispositional orders relative to the child have 4998
terminated; 4999

(3) The legal custody of the child is granted to a 5000
relative of the child, or to another person; 5001

(4) The child is placed in an adoptive home or, at the 5002
court's discretion, a final decree of adoption is issued with 5003
respect to the child; 5004

(5) The child reaches the age of eighteen if the child is 5005
~~not mentally retarded~~ intellectually disabled, developmentally 5006
disabled, or physically impaired or the child reaches the age of 5007
twenty-one if the child is ~~mentally retarded~~ intellectually 5008
disabled, developmentally disabled, or physically impaired; 5009

(6) The guardian ad litem resigns or is removed by the 5010
court and a replacement is appointed by the court. 5011

If a guardian ad litem ceases to serve a child pursuant to 5012
division (G)(4) of this section and the petition for adoption 5013
with respect to the child is denied or withdrawn prior to the 5014
issuance of a final decree of adoption or prior to the date an 5015
interlocutory order of adoption becomes final, the juvenile 5016

court shall reappoint a guardian ad litem for that child. The 5017
public children services agency or private child placing agency 5018
with permanent custody of the child shall notify the juvenile 5019
court if the petition for adoption is denied or withdrawn. 5020

(H) If the guardian ad litem for an alleged or adjudicated 5021
abused, neglected, or dependent child is an attorney admitted to 5022
the practice of law in this state, the guardian ad litem also 5023
may serve as counsel to the ward. Until the supreme court adopts 5024
rules regarding service as a guardian ad litem that regulate 5025
conflicts between a person's role as guardian ad litem and as 5026
counsel, if a person is serving as guardian ad litem and counsel 5027
for a child and either that person or the court finds that a 5028
conflict may exist between the person's roles as guardian ad 5029
litem and as counsel, the court shall relieve the person of 5030
duties as guardian ad litem and appoint someone else as guardian 5031
ad litem for the child. If the court appoints a person who is 5032
not an attorney admitted to the practice of law in this state to 5033
be a guardian ad litem, the court also may appoint an attorney 5034
admitted to the practice of law in this state to serve as 5035
counsel for the guardian ad litem. 5036

(I) The guardian ad litem for an alleged or adjudicated 5037
abused, neglected, or dependent child shall perform whatever 5038
functions are necessary to protect the best interest of the 5039
child, including, but not limited to, investigation, mediation, 5040
monitoring court proceedings, and monitoring the services 5041
provided the child by the public children services agency or 5042
private child placing agency that has temporary or permanent 5043
custody of the child, and shall file any motions and other court 5044
papers that are in the best interest of the child in accordance 5045
with rules adopted by the supreme court. 5046

The guardian ad litem shall be given notice of all 5047
hearings, administrative reviews, and other proceedings in the 5048
same manner as notice is given to parties to the action. 5049

(J) (1) When the court appoints a guardian ad litem 5050
pursuant to this section, it shall appoint a qualified volunteer 5051
or court appointed special advocate whenever one is available 5052
and the appointment is appropriate. 5053

(2) Upon request, the department of job and family 5054
services shall provide for the training of volunteer guardians 5055
ad litem. 5056

(K) A guardian ad litem shall not be appointed for a child 5057
who is under six months of age in any proceeding in which a 5058
private child placing agency is seeking permanent custody of the 5059
child or seeking approval of a voluntary permanent custody 5060
surrender agreement for the sole purpose of the adoption of the 5061
child. 5062

Sec. 2151.353. (A) If a child is adjudicated an abused, 5063
neglected, or dependent child, the court may make any of the 5064
following orders of disposition: 5065

(1) Place the child in protective supervision; 5066

(2) Commit the child to the temporary custody of a public 5067
children services agency, a private child placing agency, either 5068
parent, a relative residing within or outside the state, or a 5069
probation officer for placement in a certified foster home, or 5070
in any other home approved by the court; 5071

(3) Award legal custody of the child to either parent or 5072
to any other person who, prior to the dispositional hearing, 5073
files a motion requesting legal custody of the child or is 5074
identified as a proposed legal custodian in a complaint or 5075

motion filed prior to the dispositional hearing by any party to 5076
the proceedings. A person identified in a complaint or motion 5077
filed by a party to the proceedings as a proposed legal 5078
custodian shall be awarded legal custody of the child only if 5079
the person identified signs a statement of understanding for 5080
legal custody that contains at least the following provisions: 5081

(a) That it is the intent of the person to become the 5082
legal custodian of the child and the person is able to assume 5083
legal responsibility for the care and supervision of the child; 5084

(b) That the person understands that legal custody of the 5085
child in question is intended to be permanent in nature and that 5086
the person will be responsible as the custodian for the child 5087
until the child reaches the age of majority. Responsibility as 5088
custodian for the child shall continue beyond the age of 5089
majority if, at the time the child reaches the age of majority, 5090
the child is pursuing a diploma granted by the board of 5091
education or other governing authority, successful completion of 5092
the curriculum of any high school, successful completion of an 5093
individualized education program developed for the student by 5094
any high school, or an age and schooling certificate. 5095
Responsibility beyond the age of majority shall terminate when 5096
the child ceases to continuously pursue such an education, 5097
completes such an education, or is excused from such an 5098
education under standards adopted by the state board of 5099
education, whichever occurs first. 5100

(c) That the parents of the child have residual parental 5101
rights, privileges, and responsibilities, including, but not 5102
limited to, the privilege of reasonable visitation, consent to 5103
adoption, the privilege to determine the child's religious 5104
affiliation, and the responsibility for support; 5105

(d) That the person understands that the person must be present in court for the dispositional hearing in order to affirm the person's intention to become legal custodian, to affirm that the person understands the effect of the custodianship before the court, and to answer any questions that the court or any parties to the case may have.

(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)(1) 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 now and for the foreseeable future beyond the

date of the dispositional hearing held pursuant to section 5136
2151.35 of the Revised Code. 5137

(b) The child is sixteen years of age or older, the 5138
parents of the child have significant physical, mental, or 5139
psychological problems and are unable to care for the child 5140
because of those problems, adoption is not in the best interest 5141
of the child, as determined in accordance with division (D) (1) 5142
of section 2151.414 of the Revised Code, and the child retains a 5143
significant and positive relationship with a parent or relative. 5144

(c) The child is sixteen years of age or older, has been 5145
counseled on the permanent placement options available to the 5146
child, and is unwilling to accept or unable to adapt to a 5147
permanent placement. 5148

(6) Order the removal from the child's home until further 5149
order of the court of the person who committed abuse as 5150
described in section 2151.031 of the Revised Code against the 5151
child, who caused or allowed the child to suffer neglect as 5152
described in section 2151.03 of the Revised Code, or who is the 5153
parent, guardian, or custodian of a child who is adjudicated a 5154
dependent child and order any person not to have contact with 5155
the child or the child's siblings. 5156

(B) (1) When making a determination on whether to place a 5157
child in a planned permanent living arrangement pursuant to 5158
division (A) (5) (b) or (c) of this section, the court shall 5159
consider all relevant information that has been presented to the 5160
court, including information gathered from the child, the 5161
child's guardian ad litem, and the public children services 5162
agency or private child placing agency. 5163

(2) A child who is placed in a planned permanent living 5164

arrangement pursuant to division (A) (5) (b) or (c) of this 5165
section shall be placed in an independent living setting or in a 5166
family setting in which the caregiver has been provided by the 5167
agency that has custody of the child with a notice that 5168
addresses the following: 5169

(a) The caregiver understands that the planned permanent 5170
living arrangement is intended to be permanent in nature and 5171
that the caregiver will provide a stable placement for the child 5172
through the child's emancipation or until the court releases the 5173
child from the custody of the agency, whichever occurs first. 5174

(b) The caregiver is expected to actively participate in 5175
the youth's independent living case plan, attend agency team 5176
meetings and court hearings as appropriate, complete training, 5177
as provided in division (B) of section 5103.035 of the Revised 5178
Code, related to providing the child independent living 5179
services, and assist in the child's transition into adulthood. 5180

(3) The department of job and family services shall 5181
develop a model notice to be provided by an agency that has 5182
custody of a child to a caregiver under division (B) (2) of this 5183
section. The agency may modify the model notice to apply to the 5184
needs of the agency. 5185

(C) No order for permanent custody or temporary custody of 5186
a child or the placement of a child in a planned permanent 5187
living arrangement shall be made pursuant to this section unless 5188
the complaint alleging the abuse, neglect, or dependency 5189
contains a prayer requesting permanent custody, temporary 5190
custody, or the placement of the child in a planned permanent 5191
living arrangement as desired, the summons served on the parents 5192
of the child contains as is appropriate a full explanation that 5193
the granting of an order for permanent custody permanently 5194

divests them of their parental rights, a full explanation that 5195
an adjudication that the child is an abused, neglected, or 5196
dependent child may result in an order of temporary custody that 5197
will cause the removal of the child from their legal custody 5198
until the court terminates the order of temporary custody or 5199
permanently divests the parents of their parental rights, or a 5200
full explanation that the granting of an order for a planned 5201
permanent living arrangement will result in the removal of the 5202
child from their legal custody if any of the conditions listed 5203
in divisions (A) (5) (a) to (c) of this section are found to 5204
exist, and the summons served on the parents contains a full 5205
explanation of their right to be represented by counsel and to 5206
have counsel appointed pursuant to Chapter 120. of the Revised 5207
Code if they are indigent. 5208

If after making disposition as authorized by division (A) 5209
(2) of this section, a motion is filed that requests permanent 5210
custody of the child, the court may grant permanent custody of 5211
the child to the movant in accordance with section 2151.414 of 5212
the Revised Code. 5213

(D) If the court issues an order for protective 5214
supervision pursuant to division (A) (1) of this section, the 5215
court may place any reasonable restrictions upon the child, the 5216
child's parents, guardian, or custodian, or any other person, 5217
including, but not limited to, any of the following: 5218

(1) Order a party, within forty-eight hours after the 5219
issuance of the order, to vacate the child's home indefinitely 5220
or for a specified period of time; 5221

(2) Order a party, a parent of the child, or a physical 5222
custodian of the child to prevent any particular person from 5223
having contact with the child; 5224

(3) Issue an order restraining or otherwise controlling 5225
the conduct of any person which conduct would not be in the best 5226
interest of the child. 5227

(E) As part of its dispositional order, the court shall 5228
journalize a case plan for the child. The journalized case plan 5229
shall not be changed except as provided in section 2151.412 of 5230
the Revised Code. 5231

(F)(1) The court shall retain jurisdiction over any child 5232
for whom the court issues an order of disposition pursuant to 5233
division (A) of this section or pursuant to section 2151.414 or 5234
2151.415 of the Revised Code until the child attains the age of 5235
eighteen years if the child is not ~~mentally retarded~~ 5236
intellectually disabled, developmentally disabled, or physically 5237
impaired, the child attains the age of twenty-one years if the 5238
child is ~~mentally retarded~~ intellectually disabled, 5239
developmentally disabled, or physically impaired, or the child 5240
is adopted and a final decree of adoption is issued, except that 5241
the court may retain jurisdiction over the child and continue 5242
any order of disposition under division (A) of this section or 5243
under section 2151.414 or 2151.415 of the Revised Code for a 5244
specified period of time to enable the child to graduate from 5245
high school or vocational school. The court shall make an entry 5246
continuing its jurisdiction under this division in the journal. 5247

(2) Any public children services agency, any private child 5248
placing agency, the department of job and family services, or 5249
any party, other than any parent whose parental rights with 5250
respect to the child have been terminated pursuant to an order 5251
issued under division (A)(4) of this section, by filing a motion 5252
with the court, may at any time request the court to modify or 5253
terminate any order of disposition issued pursuant to division 5254

(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.

(G) 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. In resolving the motion, the court shall not order an existing temporary custody order to continue beyond two years after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered pursuant to division (D) of section 2151.415 of the Revised Code.

(H) (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 5286
facts supporting termination of the order at the time it files 5287
the request with the court. If no party requests extension or 5288
termination of the order, the court shall notify the parties 5289
that the court will extend the order for six months or terminate 5290
it and that it may do so without a hearing unless one of the 5291
parties requests a hearing. All parties and the guardian ad 5292
litem shall have seven days from the date a notice is sent 5293
pursuant to this division to object to and request a hearing on 5294
the proposed extension or termination. 5295

(a) If it receives a timely request for a hearing, the 5296
court shall schedule a hearing to be held no later than thirty 5297
days after the request is received by the court. The court shall 5298
give notice of the date, time, and location of the hearing to 5299
all parties and the guardian ad litem. At the hearing, the court 5300
shall determine whether extension or termination of the order is 5301
in the child's best interest. If termination is in the child's 5302
best interest, the court shall terminate the order. If extension 5303
is in the child's best interest, the court shall extend the 5304
order for six months. 5305

(b) If it does not receive a timely request for a hearing, 5306
the court may extend the order for six months or terminate it 5307
without a hearing and shall journalize the order of extension or 5308
termination not later than fourteen days after receiving the 5309
request for extension or termination or after the date the court 5310
notifies the parties that it will extend or terminate the order. 5311
If the court does not extend or terminate the order, it shall 5312
schedule a hearing to be held no later than thirty days after 5313
the expiration of the applicable fourteen-day time period and 5314
give notice of the date, time, and location of the hearing to 5315
all parties and the child's guardian ad litem. At the hearing, 5316

the court shall determine whether extension or termination of 5317
the order is in the child's best interest. If termination is in 5318
the child's best interest, the court shall terminate the order. 5319
If extension is in the child's best interest, the court shall 5320
issue an order extending the order for protective supervision 5321
six months. 5322

(2) If the court grants an extension of the order for 5323
protective supervision pursuant to division (H) (1) of this 5324
section, a party may, prior to termination of the extension, 5325
file with the court a request for an additional extension of six 5326
months or for termination of the order. The court and the 5327
parties shall comply with division (H) (1) of this section with 5328
respect to extending or terminating the order. 5329

(3) If a court grants an extension pursuant to division 5330
(H) (2) of this section, the court shall terminate the order for 5331
protective supervision at the end of the extension. 5332

(I) The court shall not issue a dispositional order 5333
pursuant to division (A) of this section that removes a child 5334
from the child's home unless the court complies with section 5335
2151.419 of the Revised Code and includes in the dispositional 5336
order the findings of fact required by that section. 5337

(J) If a motion or application for an order described in 5338
division (A) (6) of this section is made, the court shall not 5339
issue the order unless, prior to the issuance of the order, it 5340
provides to the person all of the following: 5341

(1) Notice and a copy of the motion or application; 5342

(2) The grounds for the motion or application; 5343

(3) An opportunity to present evidence and witnesses at a 5344
hearing regarding the motion or application; 5345

(4) An opportunity to be represented by counsel at the 5346
hearing. 5347

(K) The jurisdiction of the court shall terminate one year 5348
after the date of the award or, if the court takes any further 5349
action in the matter subsequent to the award, the date of the 5350
latest further action subsequent to the award, if the court 5351
awards legal custody of a child to either of the following: 5352

(1) A legal custodian who, at the time of the award of 5353
legal custody, resides in a county of this state other than the 5354
county in which the court is located; 5355

(2) A legal custodian who resides in the county in which 5356
the court is located at the time of the award of legal custody, 5357
but moves to a different county of this state prior to one year 5358
after the date of the award or, if the court takes any further 5359
action in the matter subsequent to the award, one year after the 5360
date of the latest further action subsequent to the award. 5361

The court in the county in which the legal custodian 5362
resides then shall have jurisdiction in the matter. 5363

Sec. 2151.414. (A) (1) Upon the filing of a motion pursuant 5364
to section 2151.413 of the Revised Code for permanent custody of 5365
a child, the court shall schedule a hearing and give notice of 5366
the filing of the motion and of the hearing, in accordance with 5367
section 2151.29 of the Revised Code, to all parties to the 5368
action and to the child's guardian ad litem. The notice also 5369
shall contain a full explanation that the granting of permanent 5370
custody permanently divests the parents of their parental 5371
rights, a full explanation of their right to be represented by 5372
counsel and to have counsel appointed pursuant to Chapter 120. 5373
of the Revised Code if they are indigent, and the name and 5374

telephone number of the court employee designated by the court 5375
pursuant to section 2151.314 of the Revised Code to arrange for 5376
the prompt appointment of counsel for indigent persons. 5377

The court shall conduct a hearing in accordance with 5378
section 2151.35 of the Revised Code to determine if it is in the 5379
best interest of the child to permanently terminate parental 5380
rights and grant permanent custody to the agency that filed the 5381
motion. The adjudication that the child is an abused, neglected, 5382
or dependent child and any dispositional order that has been 5383
issued in the case under section 2151.353 of the Revised Code 5384
pursuant to the adjudication shall not be readjudicated at the 5385
hearing and shall not be affected by a denial of the motion for 5386
permanent custody. 5387

(2) The court shall hold the hearing scheduled pursuant to 5388
division (A)(1) of this section not later than one hundred 5389
twenty days after the agency files the motion for permanent 5390
custody, except that, for good cause shown, the court may 5391
continue the hearing for a reasonable period of time beyond the 5392
one-hundred-twenty-day deadline. The court shall issue an order 5393
that grants, denies, or otherwise disposes of the motion for 5394
permanent custody, and journalize the order, not later than two 5395
hundred days after the agency files the motion. 5396

If a motion is made under division (D)(2) of section 5397
2151.413 of the Revised Code and no dispositional hearing has 5398
been held in the case, the court may hear the motion in the 5399
dispositional hearing required by division (B) of section 5400
2151.35 of the Revised Code. If the court issues an order 5401
pursuant to section 2151.353 of the Revised Code granting 5402
permanent custody of the child to the agency, the court shall 5403
immediately dismiss the motion made under division (D)(2) of 5404

section 2151.413 of the Revised Code. 5405

The failure of the court to comply with the time periods 5406
set forth in division (A) (2) of this section does not affect the 5407
authority of the court to issue any order under this chapter and 5408
does not provide any basis for attacking the jurisdiction of the 5409
court or the validity of any order of the court. 5410

(B) (1) Except as provided in division (B) (2) of this 5411
section, the court may grant permanent custody of a child to a 5412
movant if the court determines at the hearing held pursuant to 5413
division (A) of this section, by clear and convincing evidence, 5414
that it is in the best interest of the child to grant permanent 5415
custody of the child to the agency that filed the motion for 5416
permanent custody and that any of the following apply: 5417

(a) The child is not abandoned or orphaned, has not been 5418
in the temporary custody of one or more public children services 5419
agencies or private child placing agencies for twelve or more 5420
months of a consecutive twenty-two-month period, or has not been 5421
in the temporary custody of one or more public children services 5422
agencies or private child placing agencies for twelve or more 5423
months of a consecutive twenty-two-month period if, as described 5424
in division (D) (1) of section 2151.413 of the Revised Code, the 5425
child was previously in the temporary custody of an equivalent 5426
agency in another state, and the child cannot be placed with 5427
either of the child's parents within a reasonable time or should 5428
not be placed with the child's parents. 5429

(b) The child is abandoned. 5430

(c) The child is orphaned, and there are no relatives of 5431
the child who are able to take permanent custody. 5432

(d) The child has been in the temporary custody of one or 5433

more public children services agencies or private child placing 5434
agencies for twelve or more months of a consecutive twenty-two- 5435
month period, or the child has been in the temporary custody of 5436
one or more public children services agencies or private child 5437
placing agencies for twelve or more months of a consecutive 5438
twenty-two-month period and, as described in division (D) (1) of 5439
section 2151.413 of the Revised Code, the child was previously 5440
in the temporary custody of an equivalent agency in another 5441
state. 5442

(e) The child or another child in the custody of the 5443
parent or parents from whose custody the child has been removed 5444
has been adjudicated an abused, neglected, or dependent child on 5445
three separate occasions by any court in this state or another 5446
state. 5447

For the purposes of division (B) (1) of this section, a 5448
child shall be considered to have entered the temporary custody 5449
of an agency on the earlier of the date the child is adjudicated 5450
pursuant to section 2151.28 of the Revised Code or the date that 5451
is sixty days after the removal of the child from home. 5452

(2) With respect to a motion made pursuant to division (D) 5453
(2) of section 2151.413 of the Revised Code, the court shall 5454
grant permanent custody of the child to the movant if the court 5455
determines in accordance with division (E) of this section that 5456
the child cannot be placed with one of the child's parents 5457
within a reasonable time or should not be placed with either 5458
parent and determines in accordance with division (D) of this 5459
section that permanent custody is in the child's best interest. 5460

(C) In making the determinations required by this section 5461
or division (A) (4) of section 2151.353 of the Revised Code, a 5462
court shall not consider the effect the granting of permanent 5463

custody to the agency would have upon any parent of the child. A 5464
written report of the guardian ad litem of the child shall be 5465
submitted to the court prior to or at the time of the hearing 5466
held pursuant to division (A) of this section or section 2151.35 5467
of the Revised Code but shall not be submitted under oath. 5468

If the court grants permanent custody of a child to a 5469
movant under this division, the court, upon the request of any 5470
party, shall file a written opinion setting forth its findings 5471
of fact and conclusions of law in relation to the proceeding. 5472
The court shall not deny an agency's motion for permanent 5473
custody solely because the agency failed to implement any 5474
particular aspect of the child's case plan. 5475

(D) (1) In determining the best interest of a child at a 5476
hearing held pursuant to division (A) of this section or for the 5477
purposes of division (A) (4) or (5) of section 2151.353 or 5478
division (C) of section 2151.415 of the Revised Code, the court 5479
shall consider all relevant factors, including, but not limited 5480
to, the following: 5481

(a) The interaction and interrelationship of the child 5482
with the child's parents, siblings, relatives, foster caregivers 5483
and out-of-home providers, and any other person who may 5484
significantly affect the child; 5485

(b) The wishes of the child, as expressed directly by the 5486
child or through the child's guardian ad litem, with due regard 5487
for the maturity of the child; 5488

(c) The custodial history of the child, including whether 5489
the child has been in the temporary custody of one or more 5490
public children services agencies or private child placing 5491
agencies for twelve or more months of a consecutive twenty-two- 5492

month period, or the child has been in the temporary custody of 5493
one or more public children services agencies or private child 5494
placing agencies for twelve or more months of a consecutive 5495
twenty-two-month period and, as described in division (D) (1) of 5496
section 2151.413 of the Revised Code, the child was previously 5497
in the temporary custody of an equivalent agency in another 5498
state; 5499

(d) The child's need for a legally secure permanent 5500
placement and whether that type of placement can be achieved 5501
without a grant of permanent custody to the agency; 5502

(e) Whether any of the factors in divisions (E) (7) to (11) 5503
of this section apply in relation to the parents and child. 5504

For the purposes of division (D) (1) of this section, a 5505
child shall be considered to have entered the temporary custody 5506
of an agency on the earlier of the date the child is adjudicated 5507
pursuant to section 2151.28 of the Revised Code or the date that 5508
is sixty days after the removal of the child from home. 5509

(2) If all of the following apply, permanent custody is in 5510
the best interest of the child, and the court shall commit the 5511
child to the permanent custody of a public children services 5512
agency or private child placing agency: 5513

(a) The court determines by clear and convincing evidence 5514
that one or more of the factors in division (E) of this section 5515
exist and the child cannot be placed with one of the child's 5516
parents within a reasonable time or should not be placed with 5517
either parent. 5518

(b) The child has been in an agency's custody for two 5519
years or longer, and no longer qualifies for temporary custody 5520
pursuant to division (D) of section 2151.415 of the Revised 5521

Code. 5522

(c) The child does not meet the requirements for a planned 5523
permanent living arrangement pursuant to division (A) (5) of 5524
section 2151.353 of the Revised Code. 5525

(d) Prior to the dispositional hearing, no relative or 5526
other interested person has filed, or has been identified in, a 5527
motion for legal custody of the child. 5528

(E) In determining at a hearing held pursuant to division 5529
(A) of this section or for the purposes of division (A) (4) of 5530
section 2151.353 of the Revised Code whether a child cannot be 5531
placed with either parent within a reasonable period of time or 5532
should not be placed with the parents, the court shall consider 5533
all relevant evidence. If the court determines, by clear and 5534
convincing evidence, at a hearing held pursuant to division (A) 5535
of this section or for the purposes of division (A) (4) of 5536
section 2151.353 of the Revised Code that one or more of the 5537
following exist as to each of the child's parents, the court 5538
shall enter a finding that the child cannot be placed with 5539
either parent within a reasonable time or should not be placed 5540
with either parent: 5541

(1) Following the placement of the child outside the 5542
child's home and notwithstanding reasonable case planning and 5543
diligent efforts by the agency to assist the parents to remedy 5544
the problems that initially caused the child to be placed 5545
outside the home, the parent has failed continuously and 5546
repeatedly to substantially remedy the conditions causing the 5547
child to be placed outside the child's home. In determining 5548
whether the parents have substantially remedied those 5549
conditions, the court shall consider parental utilization of 5550
medical, psychiatric, psychological, and other social and 5551

rehabilitative services and material resources that were made 5552
available to the parents for the purpose of changing parental 5553
conduct to allow them to resume and maintain parental duties. 5554

(2) Chronic mental illness, chronic emotional illness, 5555
~~mental retardation~~ intellectual disability, physical disability, 5556
or chemical dependency of the parent that is so severe that it 5557
makes the parent unable to provide an adequate permanent home 5558
for the child at the present time and, as anticipated, within 5559
one year after the court holds the hearing pursuant to division 5560
(A) of this section or for the purposes of division (A) (4) of 5561
section 2151.353 of the Revised Code; 5562

(3) The parent committed any abuse as described in section 5563
2151.031 of the Revised Code against the child, caused the child 5564
to suffer any neglect as described in section 2151.03 of the 5565
Revised Code, or allowed the child to suffer any neglect as 5566
described in section 2151.03 of the Revised Code between the 5567
date that the original complaint alleging abuse or neglect was 5568
filed and the date of the filing of the motion for permanent 5569
custody; 5570

(4) The parent has demonstrated a lack of commitment 5571
toward the child by failing to regularly support, visit, or 5572
communicate with the child when able to do so, or by other 5573
actions showing an unwillingness to provide an adequate 5574
permanent home for the child; 5575

(5) The parent is incarcerated for an offense committed 5576
against the child or a sibling of the child; 5577

(6) The parent has been convicted of or pleaded guilty to 5578
an offense under division (A) or (C) of section 2919.22 or under 5579
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 5580

2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.23, 5581
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 5582
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 5583
2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised 5584
Code, and the child or a sibling of the child was a victim of 5585
the offense, or the parent has been convicted of or pleaded 5586
guilty to an offense under section 2903.04 of the Revised Code, 5587
a sibling of the child was the victim of the offense, and the 5588
parent who committed the offense poses an ongoing danger to the 5589
child or a sibling of the child. 5590

(7) The parent has been convicted of or pleaded guilty to 5591
one of the following: 5592

(a) An offense under section 2903.01, 2903.02, or 2903.03 5593
of the Revised Code or under an existing or former law of this 5594
state, any other state, or the United States that is 5595
substantially equivalent to an offense described in those 5596
sections and the victim of the offense was a sibling of the 5597
child or the victim was another child who lived in the parent's 5598
household at the time of the offense; 5599

(b) An offense under section 2903.11, 2903.12, or 2903.13 5600
of the Revised Code or under an existing or former law of this 5601
state, any other state, or the United States that is 5602
substantially equivalent to an offense described in those 5603
sections and the victim of the offense is the child, a sibling 5604
of the child, or another child who lived in the parent's 5605
household at the time of the offense; 5606

(c) An offense under division (B) (2) of section 2919.22 of 5607
the Revised Code or under an existing or former law of this 5608
state, any other state, or the United States that is 5609
substantially equivalent to the offense described in that 5610

section and the child, a sibling of the child, or another child 5611
who lived in the parent's household at the time of the offense 5612
is the victim of the offense; 5613

(d) An offense under section 2907.02, 2907.03, 2907.04, 5614
2907.05, or 2907.06 of the Revised Code or under an existing or 5615
former law of this state, any other state, or the United States 5616
that is substantially equivalent to an offense described in 5617
those sections and the victim of the offense is the child, a 5618
sibling of the child, or another child who lived in the parent's 5619
household at the time of the offense; 5620

(e) An offense under section 2905.32, 2907.21, or 2907.22 5621
of the Revised Code or under an existing or former law of this 5622
state, any other state, or the United States that is 5623
substantially equivalent to the offense described in that 5624
section and the victim of the offense is the child, a sibling of 5625
the child, or another child who lived in the parent's household 5626
at the time of the offense; 5627

(f) A conspiracy or attempt to commit, or complicity in 5628
committing, an offense described in division (E) (7) (a), (d), or 5629
(e) of this section. 5630

(8) The parent has repeatedly withheld medical treatment 5631
or food from the child when the parent has the means to provide 5632
the treatment or food, and, in the case of withheld medical 5633
treatment, the parent withheld it for a purpose other than to 5634
treat the physical or mental illness or defect of the child by 5635
spiritual means through prayer alone in accordance with the 5636
tenets of a recognized religious body. 5637

(9) The parent has placed the child at substantial risk of 5638
harm two or more times due to alcohol or drug abuse and has 5639

rejected treatment two or more times or refused to participate 5640
in further treatment two or more times after a case plan issued 5641
pursuant to section 2151.412 of the Revised Code requiring 5642
treatment of the parent was journalized as part of a 5643
dispositional order issued with respect to the child or an order 5644
was issued by any other court requiring treatment of the parent. 5645

(10) The parent has abandoned the child. 5646

(11) The parent has had parental rights involuntarily 5647
terminated with respect to a sibling of the child pursuant to 5648
this section or section 2151.353 or 2151.415 of the Revised 5649
Code, or under an existing or former law of this state, any 5650
other state, or the United States that is substantially 5651
equivalent to those sections, and the parent has failed to 5652
provide clear and convincing evidence to prove that, 5653
notwithstanding the prior termination, the parent can provide a 5654
legally secure permanent placement and adequate care for the 5655
health, welfare, and safety of the child. 5656

(12) The parent is incarcerated at the time of the filing 5657
of the motion for permanent custody or the dispositional hearing 5658
of the child and will not be available to care for the child for 5659
at least eighteen months after the filing of the motion for 5660
permanent custody or the dispositional hearing. 5661

(13) The parent is repeatedly incarcerated, and the 5662
repeated incarceration prevents the parent from providing care 5663
for the child. 5664

(14) The parent for any reason is unwilling to provide 5665
food, clothing, shelter, and other basic necessities for the 5666
child or to prevent the child from suffering physical, 5667
emotional, or sexual abuse or physical, emotional, or mental 5668

neglect. 5669

(15) The parent has committed abuse as described in 5670
section 2151.031 of the Revised Code against the child or caused 5671
or allowed the child to suffer neglect as described in section 5672
2151.03 of the Revised Code, and the court determines that the 5673
seriousness, nature, or likelihood of recurrence of the abuse or 5674
neglect makes the child's placement with the child's parent a 5675
threat to the child's safety. 5676

(16) Any other factor the court considers relevant. 5677

(F) The parents of a child for whom the court has issued 5678
an order granting permanent custody pursuant to this section, 5679
upon the issuance of the order, cease to be parties to the 5680
action. This division is not intended to eliminate or restrict 5681
any right of the parents to appeal the granting of permanent 5682
custody of their child to a movant pursuant to this section. 5683

Sec. 2151.415. (A) Except for cases in which a motion for 5684
permanent custody described in division (D) (1) of section 5685
2151.413 of the Revised Code is required to be made, a public 5686
children services agency or private child placing agency that 5687
has been given temporary custody of a child pursuant to section 5688
2151.353 of the Revised Code, not later than thirty days prior 5689
to the earlier of the date for the termination of the custody 5690
order pursuant to division (H) of section 2151.353 of the 5691
Revised Code or the date set at the dispositional hearing for 5692
the hearing to be held pursuant to this section, shall file a 5693
motion with the court that issued the order of disposition 5694
requesting that any of the following orders of disposition of 5695
the child be issued by the court: 5696

(1) An order that the child be returned home and the 5697

custody of the child's parents, guardian, or custodian without any restrictions;	5698 5699
(2) An order for protective supervision;	5700
(3) An order that the child be placed in the legal custody of a relative or other interested individual;	5701 5702
(4) An order permanently terminating the parental rights of the child's parents;	5703 5704
(5) An order that the child be placed in a planned permanent living arrangement;	5705 5706
(6) In accordance with division (D) of this section, an order for the extension of temporary custody.	5707 5708
(B) Upon the filing of a motion pursuant to division (A) of this section, the court shall hold a dispositional hearing on the date set at the dispositional hearing held pursuant to section 2151.35 of the Revised Code, with notice to all parties to the action in accordance with the Juvenile Rules. After the dispositional hearing or at a date after the dispositional hearing that is not later than 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, the court, in accordance with the best interest of the child as supported by the evidence presented at the dispositional hearing, shall issue an order of disposition as set forth in division (A) of this section, except that all orders for permanent custody shall be made in accordance with sections 2151.413 and 2151.414 of the Revised Code. In issuing an order of disposition under this section, the court shall comply with section 2151.42 of the Revised Code.	5709 5710 5711 5712 5713 5714 5715 5716 5717 5718 5719 5720 5721 5722 5723 5724
(C) (1) If an agency pursuant to division (A) of this section requests the court to place a child into a planned	5725 5726

permanent living arrangement, the agency shall present evidence 5727
to indicate why a planned permanent living arrangement is 5728
appropriate for the child, including, but not limited to, 5729
evidence that the agency has tried or considered all other 5730
possible dispositions for the child. A court shall not place a 5731
child in a planned permanent living arrangement, unless it 5732
finds, by clear and convincing evidence, that a planned 5733
permanent living arrangement is in the best interest of the 5734
child and that one of the following exists: 5735

(a) The child, because of physical, mental, or 5736
psychological problems or needs, is unable to function in a 5737
family-like setting and must remain in residential or 5738
institutional care. 5739

(b) The parents of the child have significant physical, 5740
mental, or psychological problems and are unable to care for the 5741
child because of those problems, adoption is not in the best 5742
interest of the child, as determined in accordance with division 5743
(D)(1) of section 2151.414 of the Revised Code, and the child 5744
retains a significant and positive relationship with a parent or 5745
relative; 5746

(c) The child is sixteen years of age or older, has been 5747
counseled on the permanent placement options available, is 5748
unwilling to accept or unable to adapt to a permanent placement, 5749
and is in an agency program preparing for independent living. 5750

(2) If the court issues an order placing a child in a 5751
planned permanent living arrangement, both of the following 5752
apply: 5753

(a) The court shall issue a finding of fact setting forth 5754
the reasons for its finding; 5755

(b) The agency may make any appropriate placement for the 5756
child and shall develop a case plan for the child that is 5757
designed to assist the child in finding a permanent home outside 5758
of the home of the parents. 5759

(D) (1) If an agency pursuant to division (A) of this 5760
section requests the court to grant an extension of temporary 5761
custody for a period of up to six months, the agency shall 5762
include in the motion an explanation of the progress on the case 5763
plan of the child and of its expectations of reunifying the 5764
child with the child's family, or placing the child in a 5765
permanent placement, within the extension period. The court 5766
shall schedule a hearing on the motion, give notice of its date, 5767
time, and location to all parties and the guardian ad litem of 5768
the child, and at the hearing consider the evidence presented by 5769
the parties and the guardian ad litem. The court may extend the 5770
temporary custody order of the child for a period of up to six 5771
months, if it determines at the hearing, by clear and convincing 5772
evidence, that the extension is in the best interest of the 5773
child, there has been significant progress on the case plan of 5774
the child, and there is reasonable cause to believe that the 5775
child will be reunified with one of the parents or otherwise 5776
permanently placed within the period of extension. In 5777
determining whether to extend the temporary custody of the child 5778
pursuant to this division, the court shall comply with section 5779
2151.42 of the Revised Code. If the court extends the temporary 5780
custody of the child pursuant to this division, upon request it 5781
shall issue findings of fact. 5782

(2) Prior to the end of the extension granted pursuant to 5783
division (D) (1) of this section, the agency that received the 5784
extension shall file a motion with the court requesting the 5785
issuance of one of the orders of disposition set forth in 5786

divisions (A) (1) to (5) of this section or requesting the court 5787
to extend the temporary custody order of the child for an 5788
additional period of up to six months. If the agency requests 5789
the issuance of an order of disposition under divisions (A) (1) 5790
to (5) of this section or does not file any motion prior to the 5791
expiration of the extension period, the court shall conduct a 5792
hearing in accordance with division (B) of this section and 5793
issue an appropriate order of disposition. In issuing an order 5794
of disposition, the court shall comply with section 2151.42 of 5795
the Revised Code. 5796

If the agency requests an additional extension of up to 5797
six months of the temporary custody order of the child, the 5798
court shall schedule and conduct a hearing in the manner set 5799
forth in division (D) (1) of this section. The court may extend 5800
the temporary custody order of the child for an additional 5801
period of up to six months if it determines at the hearing, by 5802
clear and convincing evidence, that the additional extension is 5803
in the best interest of the child, there has been substantial 5804
additional progress since the original extension of temporary 5805
custody in the case plan of the child, there has been 5806
substantial additional progress since the original extension of 5807
temporary custody toward reunifying the child with one of the 5808
parents or otherwise permanently placing the child, and there is 5809
reasonable cause to believe that the child will be reunified 5810
with one of the parents or otherwise placed in a permanent 5811
setting before the expiration of the additional extension 5812
period. In determining whether to grant an additional extension, 5813
the court shall comply with section 2151.42 of the Revised Code. 5814
If the court extends the temporary custody of the child for an 5815
additional period pursuant to this division, upon request it 5816
shall issue findings of fact. 5817

(3) Prior to the end of the extension of a temporary custody order granted pursuant to division (D)(2) of this section, the agency that received the extension shall file a motion with the court requesting the issuance of one of the orders of disposition set forth in divisions (A)(1) to (5) of this section. Upon the filing of the motion by the agency or, if the agency does not file the motion prior to the expiration of the extension period, upon its own motion, the court, prior to the expiration of the extension period, shall conduct a hearing in accordance with division (B) of this section and issue an appropriate order of disposition. In issuing an order of disposition, the court shall comply with section 2151.42 of the Revised Code.

(4) No court shall grant an agency more than two extensions of temporary custody pursuant to division (D) of this section and the court shall not order an existing temporary custody order to continue beyond two years after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered pursuant to division (D) of this section.

(E) After the issuance of an order pursuant to division (B) of this section, the court shall retain jurisdiction over the child until the child attains the age of eighteen if the child is not ~~mentally retarded~~ intellectually disabled, developmentally disabled, or physically impaired, the child attains the age of twenty-one if the child is ~~mentally retarded~~ intellectually disabled, developmentally disabled, or physically impaired, or the child is adopted and a final decree of adoption is issued, unless the court's jurisdiction over the child is extended pursuant to division (F) of section 2151.353 of the

Revised Code. 5849

(F) The court, on its own motion or the motion of the 5850
agency or person with legal custody of the child, the child's 5851
guardian ad litem, or any other party to the action, may conduct 5852
a hearing with notice to all parties to determine whether any 5853
order issued pursuant to this section should be modified or 5854
terminated or whether any other dispositional order set forth in 5855
divisions (A) (1) to (5) of this section should be issued. After 5856
the hearing and consideration of all the evidence presented, the 5857
court, in accordance with the best interest of the child, may 5858
modify or terminate any order issued pursuant to this section or 5859
issue any dispositional order set forth in divisions (A) (1) to 5860
(5) of this section. In rendering a decision under this 5861
division, the court shall comply with section 2151.42 of the 5862
Revised Code. 5863

(G) If the court places a child in a planned permanent 5864
living arrangement with a public children services agency or a 5865
private child placing agency pursuant to this section, the 5866
agency with which the child is placed in a planned permanent 5867
living arrangement shall not remove the child from the 5868
residential placement in which the child is originally placed 5869
pursuant to the case plan for the child or in which the child is 5870
placed with court approval pursuant to this division, unless the 5871
court and the guardian ad litem are given notice of the intended 5872
removal and the court issues an order approving the removal or 5873
unless the removal is necessary to protect the child from 5874
physical or emotional harm and the agency gives the court notice 5875
of the removal and of the reasons why the removal is necessary 5876
to protect the child from physical or emotional harm immediately 5877
after the removal of the child from the prior setting. 5878

(H) If the hearing held under this section takes the place 5879
of an administrative review that otherwise would have been held 5880
under section 2151.416 of the Revised Code, the court at the 5881
hearing held under this section shall do all of the following in 5882
addition to any other requirements of this section: 5883

(1) Determine the continued necessity for and the 5884
appropriateness of the child's placement; 5885

(2) Determine the extent of compliance with the child's 5886
case plan; 5887

(3) Determine the extent of progress that has been made 5888
toward alleviating or mitigating the causes necessitating the 5889
child's placement in foster care; 5890

(4) Project a likely date by which the child may be 5891
returned to the child's home or placed for adoption or legal 5892
guardianship; 5893

(5) Approve the permanency plan for the child consistent 5894
with section 2151.417 of the Revised Code. 5895

Sec. 2151.421. (A) (1) (a) No person described in division 5896
(A) (1) (b) of this section who is acting in an official or 5897
professional capacity and knows, or has reasonable cause to 5898
suspect based on facts that would cause a reasonable person in a 5899
similar position to suspect, that a child under eighteen years 5900
of age or ~~a mentally retarded~~ an intellectually disabled, 5901
developmentally disabled, or physically impaired child under 5902
twenty-one years of age has suffered or faces a threat of 5903
suffering any physical or mental wound, injury, disability, or 5904
condition of a nature that reasonably indicates abuse or neglect 5905
of the child shall fail to immediately report that knowledge or 5906
reasonable cause to suspect to the entity or persons specified 5907

in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it 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. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(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; independent marriage and family therapist or marriage and family therapist; 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; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent or regional administrator employed by the department of youth services; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county

board of developmental disabilities; employee of the department 5939
of developmental disabilities; employee of a facility or home 5940
that provides respite care in accordance with section 5123.171 5941
of the Revised Code; employee of a home health agency; employee 5942
of an entity that provides homemaker services; a person 5943
performing the duties of an assessor pursuant to Chapter 3107. 5944
or 5103. of the Revised Code; third party employed by a public 5945
children services agency to assist in providing child or family 5946
related services; court appointed special advocate; or guardian 5947
ad litem. 5948

(2) Except as provided in division (A)(3) of this section, 5949
an attorney or a physician is not required to make a report 5950
pursuant to division (A)(1) of this section concerning any 5951
communication the attorney or physician receives from a client 5952
or patient in an attorney-client or physician-patient 5953
relationship, if, in accordance with division (A) or (B) of 5954
section 2317.02 of the Revised Code, the attorney or physician 5955
could not testify with respect to that communication in a civil 5956
or criminal proceeding. 5957

(3) The client or patient in an attorney-client or 5958
physician-patient relationship described in division (A)(2) of 5959
this section is deemed to have waived any testimonial privilege 5960
under division (A) or (B) of section 2317.02 of the Revised Code 5961
with respect to any communication the attorney or physician 5962
receives from the client or patient in that attorney-client or 5963
physician-patient relationship, and the attorney or physician 5964
shall make a report pursuant to division (A)(1) of this section 5965
with respect to that communication, if all of the following 5966
apply: 5967

(a) The client or patient, at the time of the 5968

communication, is either a child under eighteen years of age or 5969
~~a mentally retarded~~ an intellectually disabled, developmentally 5970
disabled, or physically impaired person under twenty-one years 5971
of age. 5972

(b) The attorney or physician knows, or has reasonable 5973
cause to suspect based on facts that would cause a reasonable 5974
person in similar position to suspect, as a result of the 5975
communication or any observations made during that 5976
communication, that the client or patient has suffered or faces 5977
a threat of suffering any physical or mental wound, injury, 5978
disability, or condition of a nature that reasonably indicates 5979
abuse or neglect of the client or patient. 5980

(c) The abuse or neglect does not arise out of the 5981
client's or patient's attempt to have an abortion without the 5982
notification of her parents, guardian, or custodian in 5983
accordance with section 2151.85 of the Revised Code. 5984

(4) (a) No cleric and no person, other than a volunteer, 5985
designated by any church, religious society, or faith acting as 5986
a leader, official, or delegate on behalf of the church, 5987
religious society, or faith who is acting in an official or 5988
professional capacity, who knows, or has reasonable cause to 5989
believe based on facts that would cause a reasonable person in a 5990
similar position to believe, that a child under eighteen years 5991
of age or ~~a mentally retarded~~ an intellectually disabled, 5992
developmentally disabled, or physically impaired child under 5993
twenty-one years of age has suffered or faces a threat of 5994
suffering any physical or mental wound, injury, disability, or 5995
condition of a nature that reasonably indicates abuse or neglect 5996
of the child, and who knows, or has reasonable cause to believe 5997
based on facts that would cause a reasonable person in a similar 5998

position to believe, that another cleric or another person, 5999
other than a volunteer, designated by a church, religious 6000
society, or faith acting as a leader, official, or delegate on 6001
behalf of the church, religious society, or faith caused, or 6002
poses the threat of causing, the wound, injury, disability, or 6003
condition that reasonably indicates abuse or neglect shall fail 6004
to immediately report that knowledge or reasonable cause to 6005
believe to the entity or persons specified in this division. 6006
Except as provided in section 5120.173 of the Revised Code, the 6007
person making the report shall make it to the public children 6008
services agency or a municipal or county peace officer in the 6009
county in which the child resides or in which the abuse or 6010
neglect is occurring or has occurred. In the circumstances 6011
described in section 5120.173 of the Revised Code, the person 6012
making the report shall make it to the entity specified in that 6013
section. 6014

(b) Except as provided in division (A) (4) (c) of this 6015
section, a cleric is not required to make a report pursuant to 6016
division (A) (4) (a) of this section concerning any communication 6017
the cleric receives from a penitent in a cleric-penitent 6018
relationship, if, in accordance with division (C) of section 6019
2317.02 of the Revised Code, the cleric could not testify with 6020
respect to that communication in a civil or criminal proceeding. 6021

(c) The penitent in a cleric-penitent relationship 6022
described in division (A) (4) (b) of this section is deemed to 6023
have waived any testimonial privilege under division (C) of 6024
section 2317.02 of the Revised Code with respect to any 6025
communication the cleric receives from the penitent in that 6026
cleric-penitent relationship, and the cleric shall make a report 6027
pursuant to division (A) (4) (a) of this section with respect to 6028
that communication, if all of the following apply: 6029

(i) The penitent, at the time of the communication, is 6030
either a child under eighteen years of age or ~~a mentally~~ 6031
~~retarded~~ an intellectually disabled, developmentally disabled, 6032
or physically impaired person under twenty-one years of age. 6033

(ii) The cleric knows, or has reasonable cause to believe 6034
based on facts that would cause a reasonable person in a similar 6035
position to believe, as a result of the communication or any 6036
observations made during that communication, the penitent has 6037
suffered or faces a threat of suffering any physical or mental 6038
wound, injury, disability, or condition of a nature that 6039
reasonably indicates abuse or neglect of the penitent. 6040

(iii) The abuse or neglect does not arise out of the 6041
penitent's attempt to have an abortion performed upon a child 6042
under eighteen years of age or upon ~~a mentally retarded~~ an 6043
intellectually disabled, developmentally disabled, or physically 6044
impaired person under twenty-one years of age without the 6045
notification of her parents, guardian, or custodian in 6046
accordance with section 2151.85 of the Revised Code. 6047

(d) Divisions (A) (4) (a) and (c) of this section do not 6048
apply in a cleric-penitent relationship when the disclosure of 6049
any communication the cleric receives from the penitent is in 6050
violation of the sacred trust. 6051

(e) As used in divisions (A) (1) and (4) of this section, 6052
"cleric" and "sacred trust" have the same meanings as in section 6053
2317.02 of the Revised Code. 6054

(B) Anyone who knows, or has reasonable cause to suspect 6055
based on facts that would cause a reasonable person in similar 6056
circumstances to suspect, that a child under eighteen years of 6057
age or ~~a mentally retarded~~ an intellectually disabled, 6058

developmentally disabled, or physically impaired person under 6059
twenty-one years of age has suffered or faces a threat of 6060
suffering any physical or mental wound, injury, disability, or 6061
other condition of a nature that reasonably indicates abuse or 6062
neglect of the child may report or cause reports to be made of 6063
that knowledge or reasonable cause to suspect to the entity or 6064
persons specified in this division. Except as provided in 6065
section 5120.173 of the Revised Code, a person making a report 6066
or causing a report to be made under this division shall make it 6067
or cause it to be made to the public children services agency or 6068
to a municipal or county peace officer. In the circumstances 6069
described in section 5120.173 of the Revised Code, a person 6070
making a report or causing a report to be made under this 6071
division shall make it or cause it to be made to the entity 6072
specified in that section. 6073

(C) Any report made pursuant to division (A) or (B) of 6074
this section shall be made forthwith either by telephone or in 6075
person and shall be followed by a written report, if requested 6076
by the receiving agency or officer. The written report shall 6077
contain: 6078

(1) The names and addresses of the child and the child's 6079
parents or the person or persons having custody of the child, if 6080
known; 6081

(2) The child's age and the nature and extent of the 6082
child's injuries, abuse, or neglect that is known or reasonably 6083
suspected or believed, as applicable, to have occurred or of the 6084
threat of injury, abuse, or neglect that is known or reasonably 6085
suspected or believed, as applicable, to exist, including any 6086
evidence of previous injuries, abuse, or neglect; 6087

(3) Any other information that might be helpful in 6088

establishing the cause of the injury, abuse, or neglect that is 6089
known or reasonably suspected or believed, as applicable, to 6090
have occurred or of the threat of injury, abuse, or neglect that 6091
is known or reasonably suspected or believed, as applicable, to 6092
exist. 6093

Any person, who is required by division (A) of this 6094
section to report child abuse or child neglect that is known or 6095
reasonably suspected or believed to have occurred, may take or 6096
cause to be taken color photographs of areas of trauma visible 6097
on a child and, if medically indicated, cause to be performed 6098
radiological examinations of the child. 6099

(D) As used in this division, "children's advocacy center" 6100
and "sexual abuse of a child" have the same meanings as in 6101
section 2151.425 of the Revised Code. 6102

(1) When a municipal or county peace officer receives a 6103
report concerning the possible abuse or neglect of a child or 6104
the possible threat of abuse or neglect of a child, upon receipt 6105
of the report, the municipal or county peace officer who 6106
receives the report shall refer the report to the appropriate 6107
public children services agency. 6108

(2) When a public children services agency receives a 6109
report pursuant to this division or division (A) or (B) of this 6110
section, upon receipt of the report, the public children 6111
services agency shall do both of the following: 6112

(a) Comply with section 2151.422 of the Revised Code; 6113

(b) If the county served by the agency is also served by a 6114
children's advocacy center and the report alleges sexual abuse 6115
of a child or another type of abuse of a child that is specified 6116
in the memorandum of understanding that creates the center as 6117

being within the center's jurisdiction, comply regarding the 6118
report with the protocol and procedures for referrals and 6119
investigations, with the coordinating activities, and with the 6120
authority or responsibility for performing or providing 6121
functions, activities, and services stipulated in the 6122
interagency agreement entered into under section 2151.428 of the 6123
Revised Code relative to that center. 6124

(E) No township, municipal, or county peace officer shall 6125
remove a child about whom a report is made pursuant to this 6126
section from the child's parents, stepparents, or guardian or 6127
any other persons having custody of the child without 6128
consultation with the public children services agency, unless, 6129
in the judgment of the officer, and, if the report was made by 6130
physician, the physician, immediate removal is considered 6131
essential to protect the child from further abuse or neglect. 6132
The agency that must be consulted shall be the agency conducting 6133
the investigation of the report as determined pursuant to 6134
section 2151.422 of the Revised Code. 6135

(F) (1) Except as provided in section 2151.422 of the 6136
Revised Code or in an interagency agreement entered into under 6137
section 2151.428 of the Revised Code that applies to the 6138
particular report, the public children services agency shall 6139
investigate, within twenty-four hours, each report of child 6140
abuse or child neglect that is known or reasonably suspected or 6141
believed to have occurred and of a threat of child abuse or 6142
child neglect that is known or reasonably suspected or believed 6143
to exist that is referred to it under this section to determine 6144
the circumstances surrounding the injuries, abuse, or neglect or 6145
the threat of injury, abuse, or neglect, the cause of the 6146
injuries, abuse, neglect, or threat, and the person or persons 6147
responsible. The investigation shall be made in cooperation with 6148

the law enforcement agency and in accordance with the memorandum 6149
of understanding prepared under division (J) of this section. A 6150
representative of the public children services agency shall, at 6151
the time of initial contact with the person subject to the 6152
investigation, inform the person of the specific complaints or 6153
allegations made against the person. The information shall be 6154
given in a manner that is consistent with division (H)(1) of 6155
this section and protects the rights of the person making the 6156
report under this section. 6157

A failure to make the investigation in accordance with the 6158
memorandum is not grounds for, and shall not result in, the 6159
dismissal of any charges or complaint arising from the report or 6160
the suppression of any evidence obtained as a result of the 6161
report and does not give, and shall not be construed as giving, 6162
any rights or any grounds for appeal or post-conviction relief 6163
to any person. The public children services agency shall report 6164
each case to the uniform statewide automated child welfare 6165
information system that the department of job and family 6166
services shall maintain in accordance with section 5101.13 of 6167
the Revised Code. The public children services agency shall 6168
submit a report of its investigation, in writing, to the law 6169
enforcement agency. 6170

(2) The public children services agency shall make any 6171
recommendations to the county prosecuting attorney or city 6172
director of law that it considers necessary to protect any 6173
children that are brought to its attention. 6174

(G)(1)(a) Except as provided in division (H)(3) of this 6175
section, anyone or any hospital, institution, school, health 6176
department, or agency participating in the making of reports 6177
under division (A) of this section, anyone or any hospital, 6178

institution, school, health department, or agency participating 6179
in good faith in the making of reports under division (B) of 6180
this section, and anyone participating in good faith in a 6181
judicial proceeding resulting from the reports, shall be immune 6182
from any civil or criminal liability for injury, death, or loss 6183
to person or property that otherwise might be incurred or 6184
imposed as a result of the making of the reports or the 6185
participation in the judicial proceeding. 6186

(b) Notwithstanding section 4731.22 of the Revised Code, 6187
the physician-patient privilege shall not be a ground for 6188
excluding evidence regarding a child's injuries, abuse, or 6189
neglect, or the cause of the injuries, abuse, or neglect in any 6190
judicial proceeding resulting from a report submitted pursuant 6191
to this section. 6192

(2) In any civil or criminal action or proceeding in which 6193
it is alleged and proved that participation in the making of a 6194
report under this section was not in good faith or participation 6195
in a judicial proceeding resulting from a report made under this 6196
section was not in good faith, the court shall award the 6197
prevailing party reasonable attorney's fees and costs and, if a 6198
civil action or proceeding is voluntarily dismissed, may award 6199
reasonable attorney's fees and costs to the party against whom 6200
the civil action or proceeding is brought. 6201

(H) (1) Except as provided in divisions (H) (4) and (N) of 6202
this section, a report made under this section is confidential. 6203
The information provided in a report made pursuant to this 6204
section and the name of the person who made the report shall not 6205
be released for use, and shall not be used, as evidence in any 6206
civil action or proceeding brought against the person who made 6207
the report. Nothing in this division shall preclude the use of 6208

reports of other incidents of known or suspected abuse or 6209
neglect in a civil action or proceeding brought pursuant to 6210
division (M) of this section against a person who is alleged to 6211
have violated division (A) (1) of this section, provided that any 6212
information in a report that would identify the child who is the 6213
subject of the report or the maker of the report, if the maker 6214
of the report is not the defendant or an agent or employee of 6215
the defendant, has been redacted. In a criminal proceeding, the 6216
report is admissible in evidence in accordance with the Rules of 6217
Evidence and is subject to discovery in accordance with the 6218
Rules of Criminal Procedure. 6219

(2) No person shall permit or encourage the unauthorized 6220
dissemination of the contents of any report made under this 6221
section. 6222

(3) A person who knowingly makes or causes another person 6223
to make a false report under division (B) of this section that 6224
alleges that any person has committed an act or omission that 6225
resulted in a child being an abused child or a neglected child 6226
is guilty of a violation of section 2921.14 of the Revised Code. 6227

(4) If a report is made pursuant to division (A) or (B) of 6228
this section and the child who is the subject of the report dies 6229
for any reason at any time after the report is made, but before 6230
the child attains eighteen years of age, the public children 6231
services agency or municipal or county peace officer to which 6232
the report was made or referred, on the request of the child 6233
fatality review board, shall submit a summary sheet of 6234
information providing a summary of the report to the review 6235
board of the county in which the deceased child resided at the 6236
time of death. On the request of the review board, the agency or 6237
peace officer may, at its discretion, make the report available 6238

to the review board. If the county served by the public children 6239
services agency is also served by a children's advocacy center 6240
and the report of alleged sexual abuse of a child or another 6241
type of abuse of a child is specified in the memorandum of 6242
understanding that creates the center as being within the 6243
center's jurisdiction, the agency or center shall perform the 6244
duties and functions specified in this division in accordance 6245
with the interagency agreement entered into under section 6246
2151.428 of the Revised Code relative to that advocacy center. 6247

(5) A public children services agency shall advise a 6248
person alleged to have inflicted abuse or neglect on a child who 6249
is the subject of a report made pursuant to this section, 6250
including a report alleging sexual abuse of a child or another 6251
type of abuse of a child referred to a children's advocacy 6252
center pursuant to an interagency agreement entered into under 6253
section 2151.428 of the Revised Code, in writing of the 6254
disposition of the investigation. The agency shall not provide 6255
to the person any information that identifies the person who 6256
made the report, statements of witnesses, or police or other 6257
investigative reports. 6258

(I) Any report that is required by this section, other 6259
than a report that is made to the state highway patrol as 6260
described in section 5120.173 of the Revised Code, shall result 6261
in protective services and emergency supportive services being 6262
made available by the public children services agency on behalf 6263
of the children about whom the report is made, in an effort to 6264
prevent further neglect or abuse, to enhance their welfare, and, 6265
whenever possible, to preserve the family unit intact. The 6266
agency required to provide the services shall be the agency 6267
conducting the investigation of the report pursuant to section 6268
2151.422 of the Revised Code. 6269

(J) (1) Each public children services agency shall prepare 6270
a memorandum of understanding that is signed by all of the 6271
following: 6272

(a) If there is only one juvenile judge in the county, the 6273
juvenile judge of the county or the juvenile judge's 6274
representative; 6275

(b) If there is more than one juvenile judge in the 6276
county, a juvenile judge or the juvenile judges' representative 6277
selected by the juvenile judges or, if they are unable to do so 6278
for any reason, the juvenile judge who is senior in point of 6279
service or the senior juvenile judge's representative; 6280

(c) The county peace officer; 6281

(d) All chief municipal peace officers within the county; 6282

(e) Other law enforcement officers handling child abuse 6283
and neglect cases in the county; 6284

(f) The prosecuting attorney of the county; 6285

(g) If the public children services agency is not the 6286
county department of job and family services, the county 6287
department of job and family services; 6288

(h) The county humane society; 6289

(i) If the public children services agency participated in 6290
the execution of a memorandum of understanding under section 6291
2151.426 of the Revised Code establishing a children's advocacy 6292
center, each participating member of the children's advocacy 6293
center established by the memorandum. 6294

(2) A memorandum of understanding shall set forth the 6295
normal operating procedure to be employed by all concerned 6296

officials in the execution of their respective responsibilities 6297
under this section and division (C) of section 2919.21, division 6298
(B) (1) of section 2919.22, division (B) of section 2919.23, and 6299
section 2919.24 of the Revised Code and shall have as two of its 6300
primary goals the elimination of all unnecessary interviews of 6301
children who are the subject of reports made pursuant to 6302
division (A) or (B) of this section and, when feasible, 6303
providing for only one interview of a child who is the subject 6304
of any report made pursuant to division (A) or (B) of this 6305
section. A failure to follow the procedure set forth in the 6306
memorandum by the concerned officials is not grounds for, and 6307
shall not result in, the dismissal of any charges or complaint 6308
arising from any reported case of abuse or neglect or the 6309
suppression of any evidence obtained as a result of any reported 6310
child abuse or child neglect and does not give, and shall not be 6311
construed as giving, any rights or any grounds for appeal or 6312
post-conviction relief to any person. 6313

(3) A memorandum of understanding shall include all of the 6314
following: 6315

(a) The roles and responsibilities for handling emergency 6316
and nonemergency cases of abuse and neglect; 6317

(b) Standards and procedures to be used in handling and 6318
coordinating investigations of reported cases of child abuse and 6319
reported cases of child neglect, methods to be used in 6320
interviewing the child who is the subject of the report and who 6321
allegedly was abused or neglected, and standards and procedures 6322
addressing the categories of persons who may interview the child 6323
who is the subject of the report and who allegedly was abused or 6324
neglected. 6325

(4) If a public children services agency participated in 6326

the execution of a memorandum of understanding under section 6327
2151.426 of the Revised Code establishing a children's advocacy 6328
center, the agency shall incorporate the contents of that 6329
memorandum in the memorandum prepared pursuant to this section. 6330

(5) The clerk of the court of common pleas in the county 6331
may sign the memorandum of understanding prepared under division 6332
(J) (1) of this section. If the clerk signs the memorandum of 6333
understanding, the clerk shall execute all relevant 6334
responsibilities as required of officials specified in the 6335
memorandum. 6336

(K) (1) Except as provided in division (K) (4) of this 6337
section, a person who is required to make a report pursuant to 6338
division (A) of this section may make a reasonable number of 6339
requests of the public children services agency that receives or 6340
is referred the report, or of the children's advocacy center 6341
that is referred the report if the report is referred to a 6342
children's advocacy center pursuant to an interagency agreement 6343
entered into under section 2151.428 of the Revised Code, to be 6344
provided with the following information: 6345

(a) Whether the agency or center has initiated an 6346
investigation of the report; 6347

(b) Whether the agency or center is continuing to 6348
investigate the report; 6349

(c) Whether the agency or center is otherwise involved 6350
with the child who is the subject of the report; 6351

(d) The general status of the health and safety of the 6352
child who is the subject of the report; 6353

(e) Whether the report has resulted in the filing of a 6354
complaint in juvenile court or of criminal charges in another 6355

court. 6356

(2) A person may request the information specified in 6357
division (K)(1) of this section only if, at the time the report 6358
is made, the person's name, address, and telephone number are 6359
provided to the person who receives the report. 6360

When a municipal or county peace officer or employee of a 6361
public children services agency receives a report pursuant to 6362
division (A) or (B) of this section the recipient of the report 6363
shall inform the person of the right to request the information 6364
described in division (K)(1) of this section. The recipient of 6365
the report shall include in the initial child abuse or child 6366
neglect report that the person making the report was so informed 6367
and, if provided at the time of the making of the report, shall 6368
include the person's name, address, and telephone number in the 6369
report. 6370

Each request is subject to verification of the identity of 6371
the person making the report. If that person's identity is 6372
verified, the agency shall provide the person with the 6373
information described in division (K)(1) of this section a 6374
reasonable number of times, except that the agency shall not 6375
disclose any confidential information regarding the child who is 6376
the subject of the report other than the information described 6377
in those divisions. 6378

(3) A request made pursuant to division (K)(1) of this 6379
section is not a substitute for any report required to be made 6380
pursuant to division (A) of this section. 6381

(4) If an agency other than the agency that received or 6382
was referred the report is conducting the investigation of the 6383
report pursuant to section 2151.422 of the Revised Code, the 6384

agency conducting the investigation shall comply with the 6385
requirements of division (K) of this section. 6386

(L) The director of job and family services shall adopt 6387
rules in accordance with Chapter 119. of the Revised Code to 6388
implement this section. The department of job and family 6389
services may enter into a plan of cooperation with any other 6390
governmental entity to aid in ensuring that children are 6391
protected from abuse and neglect. The department shall make 6392
recommendations to the attorney general that the department 6393
determines are necessary to protect children from child abuse 6394
and child neglect. 6395

(M) Whoever violates division (A) of this section is 6396
liable for compensatory and exemplary damages to the child who 6397
would have been the subject of the report that was not made. A 6398
person who brings a civil action or proceeding pursuant to this 6399
division against a person who is alleged to have violated 6400
division (A)(1) of this section may use in the action or 6401
proceeding reports of other incidents of known or suspected 6402
abuse or neglect, provided that any information in a report that 6403
would identify the child who is the subject of the report or the 6404
maker of the report, if the maker is not the defendant or an 6405
agent or employee of the defendant, has been redacted. 6406

(N) (1) As used in this division: 6407

(a) "Out-of-home care" includes a nonchartered nonpublic 6408
school if the alleged child abuse or child neglect, or alleged 6409
threat of child abuse or child neglect, described in a report 6410
received by a public children services agency allegedly occurred 6411
in or involved the nonchartered nonpublic school and the alleged 6412
perpetrator named in the report holds a certificate, permit, or 6413
license issued by the state board of education under section 6414

3301.071 or Chapter 3319. of the Revised Code. 6415

(b) "Administrator, director, or other chief 6416
administrative officer" means the superintendent of the school 6417
district if the out-of-home care entity subject to a report made 6418
pursuant to this section is a school operated by the district. 6419

(2) No later than the end of the day following the day on 6420
which a public children services agency receives a report of 6421
alleged child abuse or child neglect, or a report of an alleged 6422
threat of child abuse or child neglect, that allegedly occurred 6423
in or involved an out-of-home care entity, the agency shall 6424
provide written notice of the allegations contained in and the 6425
person named as the alleged perpetrator in the report to the 6426
administrator, director, or other chief administrative officer 6427
of the out-of-home care entity that is the subject of the report 6428
unless the administrator, director, or other chief 6429
administrative officer is named as an alleged perpetrator in the 6430
report. If the administrator, director, or other chief 6431
administrative officer of an out-of-home care entity is named as 6432
an alleged perpetrator in a report of alleged child abuse or 6433
child neglect, or a report of an alleged threat of child abuse 6434
or child neglect, that allegedly occurred in or involved the 6435
out-of-home care entity, the agency shall provide the written 6436
notice to the owner or governing board of the out-of-home care 6437
entity that is the subject of the report. The agency shall not 6438
provide witness statements or police or other investigative 6439
reports. 6440

(3) No later than three days after the day on which a 6441
public children services agency that conducted the investigation 6442
as determined pursuant to section 2151.422 of the Revised Code 6443
makes a disposition of an investigation involving a report of 6444

alleged child abuse or child neglect, or a report of an alleged 6445
threat of child abuse or child neglect, that allegedly occurred 6446
in or involved an out-of-home care entity, the agency shall send 6447
written notice of the disposition of the investigation to the 6448
administrator, director, or other chief administrative officer 6449
and the owner or governing board of the out-of-home care entity. 6450
The agency shall not provide witness statements or police or 6451
other investigative reports. 6452

(O) As used in this section, "investigation" means the 6453
public children services agency's response to an accepted report 6454
of child abuse or neglect through either an alternative response 6455
or a traditional response. 6456

Sec. 2151.425. As used in sections 2151.426 to 2151.428 of 6457
the Revised Code: 6458

(A) "Children's advocacy center" means a center operated 6459
by participating entities within a county or two or more 6460
contiguous counties to perform functions and activities and 6461
provide services, in accordance with the interagency agreement 6462
entered into under section 2151.428 of the Revised Code, 6463
regarding reports received under section 2151.421 of the Revised 6464
Code of alleged sexual abuse of a child or another type of abuse 6465
of a child that is specified in the memorandum of understanding 6466
that creates the center as being within the center's 6467
jurisdiction and regarding the children who are the subjects of 6468
the report. 6469

(B) "Sexual abuse of a child" means unlawful sexual 6470
conduct or sexual contact, as those terms are defined in section 6471
2907.01 of the Revised Code, with a person under eighteen years 6472
of age or ~~a mentally retarded~~ an intellectually disabled, 6473
developmentally disabled, or physically impaired person under 6474

twenty-one years of age. 6475

Sec. 2151.651. The board of county commissioners of a 6476
county which, either separately or as part of a district, is 6477
planning to establish a school, forestry camp, or other facility 6478
under section 2151.65 of the Revised Code, to be used 6479
exclusively for the rehabilitation of children between the ages 6480
of twelve to eighteen years, other than psychotic or ~~mentally-~~ 6481
~~retarded-intellectually disabled~~ children, who are designated 6482
delinquent children, as defined in section 2152.02 of the 6483
Revised Code, or unruly children, as defined in section 2151.022 6484
of the Revised Code, by order of a juvenile court, may make 6485
application to the department of youth services, created under 6486
section 5139.01 of the Revised Code, for financial assistance in 6487
defraying the county's share of the cost of acquisition or 6488
construction of such school, camp, or other facility, as 6489
provided in section 5139.27 of the Revised Code. Such 6490
application shall be made on forms prescribed and furnished by 6491
the department. 6492

Sec. 2152.02. As used in this chapter: 6493

(A) "Act charged" means the act that is identified in a 6494
complaint, indictment, or information alleging that a child is a 6495
delinquent child. 6496

(B) "Admitted to a department of youth services facility" 6497
includes admission to a facility operated, or contracted for, by 6498
the department and admission to a comparable facility outside 6499
this state by another state or the United States. 6500

(C) (1) "Child" means a person who is under eighteen years 6501
of age, except as otherwise provided in divisions (C) (2) to (8) 6502
of this section. 6503

(2) Subject to division (C) (3) of this section, any person 6504
who violates a federal or state law or a municipal ordinance 6505
prior to attaining eighteen years of age shall be deemed a 6506
"child" irrespective of that person's age at the time the 6507
complaint with respect to that violation is filed or the hearing 6508
on the complaint is held. 6509

(3) Any person who, while under eighteen years of age, 6510
commits an act that would be a felony if committed by an adult 6511
and who is not taken into custody or apprehended for that act 6512
until after the person attains twenty-one years of age is not a 6513
child in relation to that act. 6514

(4) Except as otherwise provided in divisions (C) (5) and 6515
(7) of this section, any person whose case is transferred for 6516
criminal prosecution pursuant to section 2152.12 of the Revised 6517
Code shall be deemed after the transfer not to be a child in the 6518
transferred case. 6519

(5) Any person whose case is transferred for criminal 6520
prosecution pursuant to section 2152.12 of the Revised Code and 6521
who subsequently is convicted of or pleads guilty to a felony in 6522
that case, unless a serious youthful offender dispositional 6523
sentence is imposed on the child for that offense under division 6524
(B) (2) or (3) of section 2152.121 of the Revised Code and the 6525
adult portion of that sentence is not invoked pursuant to 6526
section 2152.14 of the Revised Code, and any person who is 6527
adjudicated a delinquent child for the commission of an act, who 6528
has a serious youthful offender dispositional sentence imposed 6529
for the act pursuant to section 2152.13 of the Revised Code, and 6530
whose adult portion of the dispositional sentence is invoked 6531
pursuant to section 2152.14 of the Revised Code, shall be deemed 6532
after the conviction, plea, or invocation not to be a child in 6533

any case in which a complaint is filed against the person. 6534

(6) The juvenile court has jurisdiction over a person who 6535
is adjudicated a delinquent child or juvenile traffic offender 6536
prior to attaining eighteen years of age until the person 6537
attains twenty-one years of age, and, for purposes of that 6538
jurisdiction related to that adjudication, except as otherwise 6539
provided in this division, a person who is so adjudicated a 6540
delinquent child or juvenile traffic offender shall be deemed a 6541
"child" until the person attains twenty-one years of age. If a 6542
person is so adjudicated a delinquent child or juvenile traffic 6543
offender and the court makes a disposition of the person under 6544
this chapter, at any time after the person attains twenty-one 6545
years of age, the places at which the person may be held under 6546
that disposition are not limited to places authorized under this 6547
chapter solely for confinement of children, and the person may 6548
be confined under that disposition, in accordance with division 6549
(F) (2) of section 2152.26 of the Revised Code, in places other 6550
than those authorized under this chapter solely for confinement 6551
of children. 6552

(7) The juvenile court has jurisdiction over any person 6553
whose case is transferred for criminal prosecution solely for 6554
the purpose of detaining the person as authorized in division 6555
(F) (1) or (4) of section 2152.26 of the Revised Code unless the 6556
person is convicted of or pleads guilty to a felony in the adult 6557
court. 6558

(8) Any person who, while eighteen years of age, violates 6559
division (A) (1) or (2) of section 2919.27 of the Revised Code by 6560
violating a protection order issued or consent agreement 6561
approved under section 2151.34 or 3113.31 of the Revised Code 6562
shall be considered a child for the purposes of that violation 6563

of section 2919.27 of the Revised Code. 6564

(D) "Chronic truant" means any child of compulsory school 6565
age who is absent without legitimate excuse for absence from the 6566
public school the child is supposed to attend for seven or more 6567
consecutive school days, ten or more school days in one school 6568
month, or fifteen or more school days in a school year. 6569

(E) "Community corrections facility," "public safety 6570
beds," "release authority," and "supervised release" have the 6571
same meanings as in section 5139.01 of the Revised Code. 6572

(F) "Delinquent child" includes any of the following: 6573

(1) Any child, except a juvenile traffic offender, who 6574
violates any law of this state or the United States, or any 6575
ordinance of a political subdivision of the state, that would be 6576
an offense if committed by an adult; 6577

(2) Any child who violates any lawful order of the court 6578
made under this chapter or under Chapter 2151. of the Revised 6579
Code other than an order issued under section 2151.87 of the 6580
Revised Code; 6581

(3) Any child who violates division (C) of section 6582
2907.39, division (A) of section 2923.211, or division (C)(1) or 6583
(D) of section 2925.55 of the Revised Code; 6584

(4) Any child who is a habitual truant and who previously 6585
has been adjudicated an unruly child for being a habitual 6586
truant; 6587

(5) Any child who is a chronic truant. 6588

(G) "Discretionary serious youthful offender" means a 6589
person who is eligible for a discretionary SYO and who is not 6590
transferred to adult court under a mandatory or discretionary 6591

transfer. 6592

(H) "Discretionary SYO" means a case in which the juvenile 6593
court, in the juvenile court's discretion, may impose a serious 6594
youthful offender disposition under section 2152.13 of the 6595
Revised Code. 6596

(I) "Discretionary transfer" means that the juvenile court 6597
has discretion to transfer a case for criminal prosecution under 6598
division (B) of section 2152.12 of the Revised Code. 6599

(J) "Drug abuse offense," "felony drug abuse offense," and 6600
"minor drug possession offense" have the same meanings as in 6601
section 2925.01 of the Revised Code. 6602

(K) "Electronic monitoring" and "electronic monitoring 6603
device" have the same meanings as in section 2929.01 of the 6604
Revised Code. 6605

(L) "Economic loss" means any economic detriment suffered 6606
by a victim of a delinquent act or juvenile traffic offense as a 6607
direct and proximate result of the delinquent act or juvenile 6608
traffic offense and includes any loss of income due to lost time 6609
at work because of any injury caused to the victim and any 6610
property loss, medical cost, or funeral expense incurred as a 6611
result of the delinquent act or juvenile traffic offense. 6612
"Economic loss" does not include non-economic loss or any 6613
punitive or exemplary damages. 6614

(M) "Firearm" has the same meaning as in section 2923.11 6615
of the Revised Code. 6616

(N) "Juvenile traffic offender" means any child who 6617
violates any traffic law, traffic ordinance, or traffic 6618
regulation of this state, the United States, or any political 6619
subdivision of this state, other than a resolution, ordinance, 6620

or regulation of a political subdivision of this state the 6621
violation of which is required to be handled by a parking 6622
violations bureau or a joint parking violations bureau pursuant 6623
to Chapter 4521. of the Revised Code. 6624

(O) A "legitimate excuse for absence from the public 6625
school the child is supposed to attend" has the same meaning as 6626
in section 2151.011 of the Revised Code. 6627

(P) "Mandatory serious youthful offender" means a person 6628
who is eligible for a mandatory SYO and who is not transferred 6629
to adult court under a mandatory or discretionary transfer and 6630
also includes, for purposes of imposition of a mandatory serious 6631
youthful dispositional sentence under section 2152.13 of the 6632
Revised Code, a person upon whom a juvenile court is required to 6633
impose such a sentence under division (B) (3) of section 2152.121 6634
of the Revised Code. 6635

(Q) "Mandatory SYO" means a case in which the juvenile 6636
court is required to impose a mandatory serious youthful 6637
offender disposition under section 2152.13 of the Revised Code. 6638

(R) "Mandatory transfer" means that a case is required to 6639
be transferred for criminal prosecution under division (A) of 6640
section 2152.12 of the Revised Code. 6641

(S) "Mental illness" has the same meaning as in section 6642
5122.01 of the Revised Code. 6643

~~(T) "Mentally retarded person" has the same meaning as in~~ 6644
~~section 5123.01 of the Revised Code.~~ 6645

~~(U)~~ "Monitored time" and "repeat violent offender" have 6646
the same meanings as in section 2929.01 of the Revised Code. 6647

~~(V)~~ (U) "Of compulsory school age" has the same meaning as 6648

in section 3321.01 of the Revised Code. 6649

(V) "Person with an intellectual disability" has the same 6650
meaning as in section 5123.01 of the Revised Code. 6651

(W) "Public record" has the same meaning as in section 6652
149.43 of the Revised Code. 6653

(X) "Serious youthful offender" means a person who is 6654
eligible for a mandatory SYO or discretionary SYO but who is not 6655
transferred to adult court under a mandatory or discretionary 6656
transfer and also includes, for purposes of imposition of a 6657
mandatory serious youthful dispositional sentence under section 6658
2152.13 of the Revised Code, a person upon whom a juvenile court 6659
is required to impose such a sentence under division (B) (3) of 6660
section 2152.121 of the Revised Code. 6661

(Y) "Sexually oriented offense," "juvenile offender 6662
registrant," "child-victim oriented offense," "tier I sex 6663
offender/child-victim offender," "tier II sex offender/child- 6664
victim offender," "tier III sex offender/child-victim offender," 6665
and "public registry-qualified juvenile offender registrant" 6666
have the same meanings as in section 2950.01 of the Revised 6667
Code. 6668

(Z) "Traditional juvenile" means a case that is not 6669
transferred to adult court under a mandatory or discretionary 6670
transfer, that is eligible for a disposition under sections 6671
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 6672
that is not eligible for a disposition under section 2152.13 of 6673
the Revised Code. 6674

(AA) "Transfer" means the transfer for criminal 6675
prosecution of a case involving the alleged commission by a 6676
child of an act that would be an offense if committed by an 6677

adult from the juvenile court to the appropriate court that has 6678
jurisdiction of the offense. 6679

(BB) "Category one offense" means any of the following: 6680

(1) A violation of section 2903.01 or 2903.02 of the 6681
Revised Code; 6682

(2) A violation of section 2923.02 of the Revised Code 6683
involving an attempt to commit aggravated murder or murder. 6684

(CC) "Category two offense" means any of the following: 6685

(1) A violation of section 2903.03, 2905.01, 2907.02, 6686
2909.02, 2911.01, or 2911.11 of the Revised Code; 6687

(2) A violation of section 2903.04 of the Revised Code 6688
that is a felony of the first degree; 6689

(3) A violation of section 2907.12 of the Revised Code as 6690
it existed prior to September 3, 1996. 6691

(DD) "Non-economic loss" means nonpecuniary harm suffered 6692
by a victim of a delinquent act or juvenile traffic offense as a 6693
result of or related to the delinquent act or juvenile traffic 6694
offense, including, but not limited to, pain and suffering; loss 6695
of society, consortium, companionship, care, assistance, 6696
attention, protection, advice, guidance, counsel, instruction, 6697
training, or education; mental anguish; and any other intangible 6698
loss. 6699

Sec. 2152.12. (A) (1) (a) After a complaint has been filed 6700
alleging that a child is a delinquent child for committing an 6701
act that would be aggravated murder, murder, attempted 6702
aggravated murder, or attempted murder if committed by an adult, 6703
the juvenile court at a hearing shall transfer the case if 6704
either of the following applies: 6705

(i) The child was sixteen or seventeen years of age at the 6706
time of the act charged and there is probable cause to believe 6707
that the child committed the act charged. 6708

(ii) The child was fourteen or fifteen years of age at the 6709
time of the act charged, section 2152.10 of the Revised Code 6710
provides that the child is eligible for mandatory transfer, and 6711
there is probable cause to believe that the child committed the 6712
act charged. 6713

(b) After a complaint has been filed alleging that a child 6714
is a delinquent child by reason of committing a category two 6715
offense, the juvenile court at a hearing shall transfer the case 6716
if the child was sixteen or seventeen years of age at the time 6717
of the act charged and either of the following applies: 6718

(i) Division (A) (2) (a) of section 2152.10 of the Revised 6719
Code requires the mandatory transfer of the case, and there is 6720
probable cause to believe that the child committed the act 6721
charged. 6722

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 6723
Code requires the mandatory transfer of the case, and there is 6724
probable cause to believe that the child committed the act 6725
charged. 6726

(2) The juvenile court also shall transfer a case in the 6727
circumstances described in division (C) (5) of section 2152.02 of 6728
the Revised Code or if either of the following applies: 6729

(a) A complaint is filed against a child who is eligible 6730
for a discretionary transfer under section 2152.10 of the 6731
Revised Code and who previously was convicted of or pleaded 6732
guilty to a felony in a case that was transferred to a criminal 6733
court. 6734

(b) A complaint is filed against a child who is domiciled 6735
in another state alleging that the child is a delinquent child 6736
for committing an act that would be a felony if committed by an 6737
adult, and, if the act charged had been committed in that other 6738
state, the child would be subject to criminal prosecution as an 6739
adult under the law of that other state without the need for a 6740
transfer of jurisdiction from a juvenile, family, or similar 6741
noncriminal court to a criminal court. 6742

(3) If a complaint is filed against a child alleging that 6743
the child is a delinquent child and the case is transferred 6744
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 6745
section and if the child subsequently is convicted of or pleads 6746
guilty to an offense in that case, the sentence to be imposed or 6747
disposition to be made of the child shall be determined in 6748
accordance with section 2152.121 of the Revised Code. 6749

(B) Except as provided in division (A) of this section, 6750
after a complaint has been filed alleging that a child is a 6751
delinquent child for committing an act that would be a felony if 6752
committed by an adult, the juvenile court at a hearing may 6753
transfer the case if the court finds all of the following: 6754

(1) The child was fourteen years of age or older at the 6755
time of the act charged. 6756

(2) There is probable cause to believe that the child 6757
committed the act charged. 6758

(3) The child is not amenable to care or rehabilitation 6759
within the juvenile system, and the safety of the community may 6760
require that the child be subject to adult sanctions. In making 6761
its decision under this division, the court shall consider 6762
whether the applicable factors under division (D) of this 6763

section indicating that the case should be transferred outweigh 6764
the applicable factors under division (E) of this section 6765
indicating that the case should not be transferred. The record 6766
shall indicate the specific factors that were applicable and 6767
that the court weighed. 6768

(C) Before considering a transfer under division (B) of 6769
this section, the juvenile court shall order an investigation 6770
into the child's social history, education, family situation, 6771
and any other factor bearing on whether the child is amenable to 6772
juvenile rehabilitation, including a mental examination of the 6773
child by a public or private agency or a person qualified to 6774
make the examination. The investigation shall be completed and a 6775
report on the investigation shall be submitted to the court as 6776
soon as possible but not more than forty-five calendar days 6777
after the court orders the investigation. The court may grant 6778
one or more extensions for a reasonable length of time. The 6779
child may waive the examination required by this division if the 6780
court finds that the waiver is competently and intelligently 6781
made. Refusal to submit to a mental examination by the child 6782
constitutes a waiver of the examination. 6783

(D) In considering whether to transfer a child under 6784
division (B) of this section, the juvenile court shall consider 6785
the following relevant factors, and any other relevant factors, 6786
in favor of a transfer under that division: 6787

(1) The victim of the act charged suffered physical or 6788
psychological harm, or serious economic harm, as a result of the 6789
alleged act. 6790

(2) The physical or psychological harm suffered by the 6791
victim due to the alleged act of the child was exacerbated 6792
because of the physical or psychological vulnerability or the 6793

age of the victim. 6794

(3) The child's relationship with the victim facilitated 6795
the act charged. 6796

(4) The child allegedly committed the act charged for hire 6797
or as a part of a gang or other organized criminal activity. 6798

(5) The child had a firearm on or about the child's person 6799
or under the child's control at the time of the act charged, the 6800
act charged is not a violation of section 2923.12 of the Revised 6801
Code, and the child, during the commission of the act charged, 6802
allegedly used or displayed the firearm, brandished the firearm, 6803
or indicated that the child possessed a firearm. 6804

(6) At the time of the act charged, the child was awaiting 6805
adjudication or disposition as a delinquent child, was under a 6806
community control sanction, or was on parole for a prior 6807
delinquent child adjudication or conviction. 6808

(7) The results of any previous juvenile sanctions and 6809
programs indicate that rehabilitation of the child will not 6810
occur in the juvenile system. 6811

(8) The child is emotionally, physically, or 6812
psychologically mature enough for the transfer. 6813

(9) There is not sufficient time to rehabilitate the child 6814
within the juvenile system. 6815

(E) In considering whether to transfer a child under 6816
division (B) of this section, the juvenile court shall consider 6817
the following relevant factors, and any other relevant factors, 6818
against a transfer under that division: 6819

(1) The victim induced or facilitated the act charged. 6820

- (2) The child acted under provocation in allegedly committing the act charged. 6821
6822
- (3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person. 6823
6824
6825
- (4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged. 6826
6827
6828
- (5) The child previously has not been adjudicated a delinquent child. 6829
6830
- (6) The child is not emotionally, physically, or psychologically mature enough for the transfer. 6831
6832
- (7) The child has a mental illness or is ~~a mentally~~ retarded-an intellectually disabled person. 6833
6834
- (8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety. 6835
6836
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6838
- (F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred ~~for~~, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner: 6839
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(1) Initially, the court shall decide the motion alleging 6849
that division (A) of this section applies and requires that the 6850
case or cases involving one or more of the acts charged be 6851
transferred. 6852

(2) If the court determines that division (A) of this 6853
section applies and requires that the case or cases involving 6854
one or more of the acts charged be transferred, the court shall 6855
transfer the case or cases in accordance with that division. 6856
After the transfer pursuant to division (A) of this section, the 6857
court shall decide, in accordance with division (B) of this 6858
section, whether to grant the motion requesting that the case or 6859
cases involving one or more of the acts charged be transferred 6860
pursuant to that division. Notwithstanding division (B) of this 6861
section, prior to transferring a case pursuant to division (A) 6862
of this section, the court is not required to consider any 6863
factor specified in division (D) or (E) of this section or to 6864
conduct an investigation under division (C) of this section. 6865

(3) If the court determines that division (A) of this 6866
section does not require that the case or cases involving one or 6867
more of the acts charged be transferred, the court shall decide 6868
in accordance with division (B) of this section whether to grant 6869
the motion requesting that the case or cases involving one or 6870
more of the acts charged be transferred pursuant to that 6871
division. 6872

(4) No report on an investigation conducted pursuant to 6873
division (C) of this section shall include details of the 6874
alleged offense as reported by the child. 6875

(G) The court shall give notice in writing of the time, 6876
place, and purpose of any hearing held pursuant to division (A) 6877
or (B) of this section to the child's parents, guardian, or 6878

other custodian and to the child's counsel at least three days 6879
prior to the hearing. 6880

(H) No person, either before or after reaching eighteen 6881
years of age, shall be prosecuted as an adult for an offense 6882
committed prior to becoming eighteen years of age, unless the 6883
person has been transferred as provided in division (A) or (B) 6884
of this section or unless division (J) of this section applies. 6885
Any prosecution that is had in a criminal court on the mistaken 6886
belief that the person who is the subject of the case was 6887
eighteen years of age or older at the time of the commission of 6888
the offense shall be deemed a nullity, and the person shall not 6889
be considered to have been in jeopardy on the offense. 6890

(I) Upon the transfer of a case under division (A) or (B) 6891
of this section, the juvenile court shall state the reasons for 6892
the transfer on the record, and shall order the child to enter 6893
into a recognizance with good and sufficient surety for the 6894
child's appearance before the appropriate court for any 6895
disposition that the court is authorized to make for a similar 6896
act committed by an adult. The transfer abates the jurisdiction 6897
of the juvenile court with respect to the delinquent acts 6898
alleged in the complaint, and, upon the transfer, all further 6899
proceedings pertaining to the act charged shall be discontinued 6900
in the juvenile court, and the case then shall be within the 6901
jurisdiction of the court to which it is transferred as 6902
described in division (H) of section 2151.23 of the Revised 6903
Code. 6904

(J) If a person under eighteen years of age allegedly 6905
commits an act that would be a felony if committed by an adult 6906
and if the person is not taken into custody or apprehended for 6907
that act until after the person attains twenty-one years of age, 6908

the juvenile court does not have jurisdiction to hear or 6909
determine any portion of the case charging the person with 6910
committing that act. In those circumstances, divisions (A) and 6911
(B) of this section do not apply regarding the act, and the case 6912
charging the person with committing the act shall be a criminal 6913
prosecution commenced and heard in the appropriate court having 6914
jurisdiction of the offense as if the person had been eighteen 6915
years of age or older when the person committed the act. All 6916
proceedings pertaining to the act shall be within the 6917
jurisdiction of the court having jurisdiction of the offense, 6918
and that court has all the authority and duties in the case as 6919
it has in other criminal cases in that court. 6920

Sec. 2152.14. (A) (1) The director of youth services may 6921
request the prosecuting attorney of the county in which is 6922
located the juvenile court that imposed a serious youthful 6923
offender dispositional sentence upon a person under section 6924
2152.121 or 2152.13 of the Revised Code to file a motion with 6925
that juvenile court to invoke the adult portion of the 6926
dispositional sentence if all of the following apply to the 6927
person: 6928

(a) The person is at least fourteen years of age. 6929

(b) The person is in the institutional custody, or an 6930
escapee from the custody, of the department of youth services. 6931

(c) The person is serving the juvenile portion of the 6932
serious youthful offender dispositional sentence. 6933

(2) The motion shall state that there is reasonable cause 6934
to believe that either of the following misconduct has occurred 6935
and shall state that at least one incident of misconduct of that 6936
nature occurred after the person reached fourteen years of age: 6937

(a) The person committed an act that is a violation of the 6938
rules of the institution and that could be charged as any felony 6939
or as a first degree misdemeanor offense of violence if 6940
committed by an adult. 6941

(b) The person has engaged in conduct that creates a 6942
substantial risk to the safety or security of the institution, 6943
the community, or the victim. 6944

(B) If a person is at least fourteen years of age, is 6945
serving the juvenile portion of a serious youthful offender 6946
dispositional sentence imposed under section 2152.121 or 2152.13 6947
of the Revised Code, and is on parole or aftercare from a 6948
department of youth services facility, or on community control, 6949
the director of youth services, the juvenile court that imposed 6950
the serious youthful offender dispositional sentence on the 6951
person, or the probation department supervising the person may 6952
request the prosecuting attorney of the county in which is 6953
located the juvenile court to file a motion with the juvenile 6954
court to invoke the adult portion of the dispositional sentence. 6955
The prosecuting attorney may file a motion to invoke the adult 6956
portion of the dispositional sentence even if no request is 6957
made. The motion shall state that there is reasonable cause to 6958
believe that either of the following occurred and shall state 6959
that at least one incident of misconduct of that nature occurred 6960
after the person reached fourteen years of age: 6961

(1) The person committed an act that is a violation of the 6962
conditions of supervision and that could be charged as any 6963
felony or as a first degree misdemeanor offense of violence if 6964
committed by an adult. 6965

(2) The person has engaged in conduct that creates a 6966
substantial risk to the safety or security of the community or 6967

of the victim. 6968

(C) If the prosecuting attorney declines a request to file 6969
a motion that was made by the department of youth services or 6970
the supervising probation department under division (A) or (B) 6971
of this section or fails to act on a request made under either 6972
division by the department within a reasonable time, the 6973
department of youth services or the supervising probation 6974
department may file a motion of the type described in division 6975
(A) or (B) of this section with the juvenile court to invoke the 6976
adult portion of the serious youthful offender dispositional 6977
sentence. If the prosecuting attorney declines a request to file 6978
a motion that was made by the juvenile court under division (B) 6979
of this section or fails to act on a request from the court 6980
under that division within a reasonable time, the juvenile court 6981
may hold the hearing described in division (D) of this section 6982
on its own motion. 6983

(D) Upon the filing of a motion described in division (A), 6984
(B), or (C) of this section, the juvenile court may hold a 6985
hearing to determine whether to invoke the adult portion of a 6986
person's serious juvenile offender dispositional sentence. The 6987
juvenile court shall not invoke the adult portion of the 6988
dispositional sentence without a hearing. At the hearing the 6989
person who is the subject of the serious youthful offender 6990
disposition has the right to be present, to receive notice of 6991
the grounds upon which the adult sentence portion is sought to 6992
be invoked, to be represented by counsel including counsel 6993
appointed under Juvenile Rule 4(A), to be advised on the 6994
procedures and protections set forth in the Juvenile Rules, and 6995
to present evidence on the person's own behalf, including 6996
evidence that the person has a mental illness or is ~~a mentally~~ 6997
~~retarded~~ an intellectually disabled person. The person may not 6998

waive the right to counsel. The hearing shall be open to the public. If the person presents evidence that the person has a mental illness or is ~~a mentally retarded~~ an intellectually disabled person, the juvenile court shall consider that evidence in determining whether to invoke the adult portion of the serious youthful offender dispositional sentence.

(E) (1) The juvenile court may invoke the adult portion of a person's serious youthful offender dispositional sentence if the juvenile court finds all of the following on the record by clear and convincing evidence:

(a) The person is serving the juvenile portion of a serious youthful offender dispositional sentence.

(b) The person is at least fourteen years of age and has been admitted to a department of youth services facility, or criminal charges are pending against the person.

(c) The person engaged in the conduct or acts charged under division (A), (B), or (C) of this section, and the person's conduct demonstrates that the person is unlikely to be rehabilitated during the remaining period of juvenile jurisdiction.

(2) The court may modify the adult sentence the court invokes to consist of any lesser prison term that could be imposed for the offense and, in addition to the prison term or in lieu of the prison term if the prison term was not mandatory, any community control sanction that the offender was eligible to receive at sentencing.

(F) If a juvenile court issues an order invoking the adult portion of a serious youthful offender dispositional sentence under division (E) of this section, the juvenile portion of the

dispositional sentence shall terminate, and the department of 7028
youth services shall transfer the person to the department of 7029
rehabilitation and correction or place the person under another 7030
sanction imposed as part of the sentence. The juvenile court 7031
shall state in its order the total number of days that the 7032
person has been held in detention or in a facility operated by, 7033
or under contract with, the department of youth services under 7034
the juvenile portion of the dispositional sentence. The time the 7035
person must serve on a prison term imposed under the adult 7036
portion of the dispositional sentence shall be reduced by the 7037
total number of days specified in the order plus any additional 7038
days the person is held in a juvenile facility or in detention 7039
after the order is issued and before the person is transferred 7040
to the custody of the department of rehabilitation and 7041
correction. In no case shall the total prison term as calculated 7042
under this division exceed the maximum prison term available for 7043
an adult who is convicted of violating the same sections of the 7044
Revised Code. 7045

Any community control imposed as part of the adult 7046
sentence or as a condition of a judicial release from prison 7047
shall be under the supervision of the entity that provides adult 7048
probation services in the county. Any post-release control 7049
imposed after the offender otherwise is released from prison 7050
shall be supervised by the adult parole authority. 7051

Sec. 2152.51. (A) As used in sections 2152.51 to 2152.59 7052
of the Revised Code: 7053

(1) "Competent" and "competency" refer to a child's 7054
ability to understand the nature and objectives of a proceeding 7055
against the child and to assist in the child's defense. A child 7056
is incompetent if, due to mental illness, intellectual 7057

disability, or developmental disability, or otherwise due to a 7058
lack of mental capacity, the child is presently incapable of 7059
understanding the nature and objective of proceedings against 7060
the child or of assisting in the child's defense. 7061

(2) "Delinquent child proceeding" means any proceeding 7062
under this chapter. 7063

(3) "A person who is at least moderately intellectually 7064
disabled" means ~~"a person who is at least moderately mentally~~ 7065
~~retarded," as defined~~ has the same meaning as in section 5123.01 7066
of the Revised Code. 7067

(4) "Person with intellectual disability" has the same 7068
meaning as in section 2951.041 of the Revised Code. 7069

(B) Each juvenile court shall adopt rules to expedite 7070
proceedings under sections 2152.51 to 2152.59 of the Revised 7071
Code. The rules shall include provisions for giving notice of 7072
any hearings held under those sections and for staying any 7073
proceedings on the underlying complaint pending the 7074
determinations under those sections. 7075

(C) At a competency-related hearing held under section 7076
2152.53 or 2152.58 of the Revised Code, the child shall be 7077
represented by an attorney. If the child is indigent and cannot 7078
obtain counsel, the court shall appoint an attorney under 7079
Chapter 120. of the Revised Code or the Rules of Juvenile 7080
Procedure. 7081

Sec. 2152.811. (A) As used in this section: 7082

(1) ~~"Mentally retarded person"~~ Person with an intellectual 7083
disability" and ~~"developmentally disabled person with a~~ 7084
developmental disability" have the same meanings as in section 7085
5123.01 of the Revised Code. 7086

(2) "~~Mentally retarded~~ Intellectually disabled or 7087
developmentally disabled victim" includes any of the following 7088
persons: 7089

(a) ~~A mentally retarded~~ An intellectually disabled person 7090
or a developmentally disabled person who was a victim of a 7091
violation identified in division (B)(1) of this section or an 7092
act that would be an offense of violence if committed by an 7093
adult; 7094

(b) ~~A mentally retarded~~ An intellectually disabled person 7095
or a developmentally disabled person against whom was directed 7096
any conduct that constitutes, or that is an element of, a 7097
violation identified in division (B)(1) of this section or an 7098
act that would be an offense of violence if committed by an 7099
adult. 7100

(B)(1) In any proceeding in juvenile court involving a 7101
complaint, indictment, or information in which a child is 7102
charged with a violation of section 2903.16, 2903.34, 2903.341, 7103
2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 7104
2907.321, 2907.322, or 2907.323 of the Revised Code or an act 7105
that would be an offense of violence if committed by an adult 7106
and in which an alleged victim of the violation or act was ~~a~~ 7107
~~mentally retarded~~ an intellectually disabled person or a 7108
developmentally disabled person, the juvenile judge, upon motion 7109
of the prosecution, shall order that the testimony of the 7110
~~mentally retarded~~ intellectually disabled or developmentally 7111
disabled victim be taken by deposition. The prosecution also may 7112
request that the deposition be videotaped in accordance with 7113
division (B)(2) of this section. The judge shall notify the 7114
~~mentally retarded~~ intellectually disabled or developmentally 7115
disabled victim whose deposition is to be taken, the 7116

prosecution, and the attorney for the child who is charged with 7117
the violation or act of the date, time, and place for taking the 7118
deposition. The notice shall identify the ~~mentally retarded~~ 7119
intellectually disabled or developmentally disabled victim who 7120
is to be examined and shall indicate whether a request that the 7121
deposition be videotaped has been made. The child who is charged 7122
with the violation or act shall have the right to attend the 7123
deposition and the right to be represented by counsel. 7124
Depositions shall be taken in the manner provided in civil 7125
cases, except that the judge in the proceeding shall preside at 7126
the taking of the deposition and shall rule at that time on any 7127
objections of the prosecution or the attorney for the child 7128
charged with the violation or act. The prosecution and the 7129
attorney for the child charged with the violation or act shall 7130
have the right, as at an adjudication hearing, to full 7131
examination and cross-examination of the ~~mentally retarded~~ 7132
intellectually disabled or developmentally disabled victim whose 7133
deposition is to be taken. 7134

If a deposition taken under this division is intended to 7135
be offered as evidence in the proceeding, it shall be filed in 7136
the juvenile court in which the action is pending and is 7137
admissible in the manner described in division (C) of this 7138
section. If a deposition of a ~~mentally retarded~~ an 7139
intellectually disabled or a developmentally disabled victim 7140
taken under this division is admitted as evidence at the 7141
proceeding under division (C) of this section, the ~~mentally~~ 7142
~~retarded~~ intellectually disabled or developmentally disabled 7143
victim shall not be required to testify in person at the 7144
proceeding. 7145

At any time before the conclusion of the proceeding, the 7146
attorney for the child charged with the violation or act may 7147

file a motion with the judge requesting that another deposition 7148
of the ~~mentally retarded~~ intellectually disabled or 7149
developmentally disabled victim be taken because new evidence 7150
material to the defense of the child charged has been discovered 7151
that the attorney for the child charged could not with 7152
reasonable diligence have discovered prior to the taking of the 7153
admitted deposition. Any motion requesting another deposition 7154
shall be accompanied by supporting affidavits. Upon the filing 7155
of the motion and affidavits, the court may order that 7156
additional testimony of the ~~mentally retarded~~ intellectually 7157
disabled or developmentally disabled victim relative to the new 7158
evidence be taken by another deposition. If the court orders the 7159
taking of another deposition under this provision, the 7160
deposition shall be taken in accordance with this division. If 7161
the admitted deposition was a videotaped deposition taken in 7162
accordance with division (B) (2) of this section, the new 7163
deposition also shall be videotaped in accordance with that 7164
division. In other cases, the new deposition may be videotaped 7165
in accordance with that division. 7166

(2) If the prosecution requests that a deposition to be 7167
taken under division (B) (1) of this section be videotaped, the 7168
juvenile judge shall order that the deposition be videotaped in 7169
accordance with this division. If a juvenile judge issues an 7170
order to video tape the deposition, the judge shall exclude from 7171
the room in which the deposition is to be taken every person 7172
except the ~~mentally retarded~~ intellectually disabled or 7173
developmentally disabled victim giving the testimony, the judge, 7174
one or more interpreters if needed, the attorneys for the 7175
prosecution and the child who is charged with the violation or 7176
act, any person needed to operate the equipment to be used, one 7177
person chosen by the ~~mentally retarded~~ intellectually disabled 7178

or developmentally disabled victim giving the deposition, and 7179
any person whose presence the judge determines would contribute 7180
to the welfare and well-being of the ~~mentally retarded~~ 7181
intellectually disabled or developmentally disabled victim 7182
giving the deposition. The person chosen by the ~~mentally~~ 7183
~~retarded~~ intellectually disabled or developmentally disabled 7184
victim shall not be a witness in the proceeding and, both before 7185
and during the deposition, shall not discuss the testimony of 7186
the victim with any other witness in the proceeding. To the 7187
extent feasible, any person operating the recording equipment 7188
shall be restricted to a room adjacent to the room in which the 7189
deposition is being taken, or to a location in the room in which 7190
the deposition is being taken that is behind a screen or mirror 7191
so that the person operating the recording equipment can see and 7192
hear, but cannot be seen or heard by, the ~~mentally retarded~~ 7193
intellectually disabled or developmentally disabled victim 7194
giving the deposition during the deposition. 7195

The child who is charged with the violation or act shall 7196
be permitted to observe and hear the testimony of the ~~mentally~~ 7197
~~retarded~~ intellectually disabled or developmentally disabled 7198
victim giving the deposition on a monitor, shall be provided 7199
with an electronic means of immediate communication with the 7200
attorney of the child who is charged with the violation or act 7201
during the testimony, and shall be restricted to a location from 7202
which the child who is charged with the violation or act cannot 7203
be seen or heard by the ~~mentally retarded~~ intellectually 7204
disabled or developmentally disabled victim giving the 7205
deposition, except on a monitor provided for that purpose. The 7206
~~mentally retarded~~ intellectually disabled or developmentally 7207
disabled victim giving the deposition shall be provided with a 7208
monitor on which the ~~mentally retarded~~ intellectually disabled 7209

or developmentally disabled victim can observe, while giving 7210
testimony, the child who is charged with the violation or act. 7211
The judge, at the judge's discretion, may preside at the 7212
deposition by electronic means from outside the room in which 7213
the deposition is to be taken; if the judge presides by 7214
electronic means, the judge shall be provided with monitors on 7215
which the judge can see each person in the room in which the 7216
deposition is to be taken and with an electronic means of 7217
communication with each person in that room, and each person in 7218
the room shall be provided with a monitor on which that person 7219
can see the judge and with an electronic means of communication 7220
with the judge. A deposition that is videotaped under this 7221
division shall be taken and filed in the manner described in 7222
division (B)(1) of this section and is admissible in the manner 7223
described in this division and division (C) of this section. If 7224
a deposition that is videotaped under this division is admitted 7225
as evidence at the proceeding, the ~~mentally retarded~~ 7226
intellectually disabled or developmentally disabled victim shall 7227
not be required to testify in person at the proceeding. No 7228
deposition videotaped under this division shall be admitted as 7229
evidence at any proceeding unless division (C) of this section 7230
is satisfied relative to the deposition and all of the following 7231
apply relative to the recording: 7232

(a) The recording is both aural and visual and is recorded 7233
on film or videotape, or by other electronic means. 7234

(b) The recording is authenticated under the Rules of 7235
Evidence and the Rules of Criminal Procedure as a fair and 7236
accurate representation of what occurred, and the recording is 7237
not altered other than at the direction and under the 7238
supervision of the judge in the proceeding. 7239

(c) Each voice on the recording that is material to the testimony on the recording or the making of the recording, as determined by the judge, is identified.

(d) Both the prosecution and the child who is charged with the violation or act are afforded an opportunity to view the recording before it is shown in the proceeding.

(C) (1) At any proceeding in relation to which a deposition was taken under division (B) of this section, the deposition or a part of it is admissible in evidence upon motion of the prosecution if the testimony in the deposition or the part to be admitted is not excluded by the hearsay rule and if the deposition or the part to be admitted otherwise is admissible under the Rules of Evidence. For purposes of this division, testimony is not excluded by the hearsay rule if the testimony is not hearsay under Evidence Rule 801; the testimony is within an exception to the hearsay rule set forth in Evidence Rule 803; the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim who gave the testimony is unavailable as a witness, as defined in Evidence Rule 804, and the testimony is admissible under that rule; or both of the following apply:

(a) The child who is charged with the violation or act had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination.

(b) The judge determines that there is reasonable cause to believe that, if the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim who gave the testimony in the deposition were to testify in person at the proceeding, the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim would experience serious emotional trauma as a

result of the ~~mentally retarded~~ intellectually disabled or 7270
developmentally disabled victim's participation at the 7271
proceeding. 7272

(2) Objections to receiving in evidence a deposition or a 7273
part of it under division (C) of this section shall be made as 7274
provided in civil actions. 7275

(3) The provisions of divisions (B) and (C) of this 7276
section are in addition to any other provisions of the Revised 7277
Code, the Rules of Juvenile Procedure, the Rules of Criminal 7278
Procedure, or the Rules of Evidence that pertain to the taking 7279
or admission of depositions in a juvenile court proceeding and 7280
do not limit the admissibility under any of those other 7281
provisions of any deposition taken under division (B) of this 7282
section or otherwise taken. 7283

(D) In any proceeding in juvenile court involving a 7284
complaint, indictment, or information in which a child is 7285
charged with a violation listed in division (B)(1) of this 7286
section or an act that would be an offense of violence if 7287
committed by an adult and in which an alleged victim of the 7288
violation or offense was ~~a mentally retarded~~ an intellectually 7289
disabled or a developmentally disabled person, the prosecution 7290
may file a motion with the juvenile judge requesting the judge 7291
to order the testimony of the ~~mentally retarded~~ intellectually 7292
disabled or developmentally disabled victim to be taken in a 7293
room other than the room in which the proceeding is being 7294
conducted and be televised, by closed circuit equipment, into 7295
the room in which the proceeding is being conducted to be viewed 7296
by the child who is charged with the violation or act and any 7297
other persons who are not permitted in the room in which the 7298
testimony is to be taken but who would have been present during 7299

the testimony of the ~~mentally retarded~~ intellectually disabled 7300
or developmentally disabled victim had it been given in the room 7301
in which the proceeding is being conducted. Except for good 7302
cause shown, the prosecution shall file a motion under this 7303
division at least seven days before the date of the proceeding. 7304
The juvenile judge may issue the order upon the motion of the 7305
prosecution filed under this division, if the judge determines 7306
that the ~~mentally retarded~~ intellectually disabled or 7307
developmentally disabled victim is unavailable to testify in the 7308
room in which the proceeding is being conducted in the physical 7309
presence of the child charged with the violation or act for one 7310
or more of the reasons set forth in division (F) of this 7311
section. If a juvenile judge issues an order of that nature, the 7312
judge shall exclude from the room in which the testimony is to 7313
be taken every person except a person described in division (B) 7314
(2) of this section. The judge, at the judge's discretion, may 7315
preside during the giving of the testimony by electronic means 7316
from outside the room in which it is being given, subject to the 7317
limitations set forth in division (B) (2) of this section. To the 7318
extent feasible, any person operating the televising equipment 7319
shall be hidden from the sight and hearing of the ~~mentally~~ 7320
~~retarded~~ intellectually disabled or developmentally disabled 7321
victim giving the testimony, in a manner similar to that 7322
described in division (B) (2) of this section. The child who is 7323
charged with the violation or act shall be permitted to observe 7324
and hear the testimony of the ~~mentally retarded~~ intellectually 7325
disabled or developmentally disabled victim giving the testimony 7326
on a monitor, shall be provided with an electronic means of 7327
immediate communication with the attorney of the child who is 7328
charged with the violation or act during the testimony, and 7329
shall be restricted to a location from which the child who is 7330
charged with the violation or act cannot be seen or heard by the 7331

~~mentally retarded~~ intellectually disabled or developmentally disabled victim giving the testimony, except on a monitor provided for that purpose. The ~~mentally retarded~~ intellectually disabled or developmentally disabled victim giving the testimony shall be provided with a monitor on which the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim can observe, while giving testimony, the child who is charged with the violation or act.

(E) In any proceeding in juvenile court involving a complaint, indictment, or information in which a child is charged with a violation listed in division (B)(1) of this section or an act that would be an offense of violence if committed by an adult and in which an alleged victim of the violation or offense was ~~a mentally retarded~~ an intellectually disabled or a developmentally disabled person, the prosecution may file a motion with the juvenile judge requesting the judge to order the testimony of the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim to be taken outside of the room in which the proceeding is being conducted and be recorded for showing in the room in which the proceeding is being conducted before the judge, the child who is charged with the violation or act, and any other persons who would have been present during the testimony of the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim had it been given in the room in which the proceeding is being conducted. Except for good cause shown, the prosecution shall file a motion under this division at least seven days before the date of the proceeding. The juvenile judge may issue the order upon the motion of the prosecution filed under this division, if the judge determines that the ~~mentally retarded~~ intellectually disabled or developmentally disabled victim is unavailable to

testify in the room in which the proceeding is being conducted 7363
in the physical presence of the child charged with the violation 7364
or act, due to one or more of the reasons set forth in division 7365
(F) of this section. If a juvenile judge issues an order of that 7366
nature, the judge shall exclude from the room in which the 7367
testimony is to be taken every person except a person described 7368
in division (B) (2) of this section. To the extent feasible, any 7369
person operating the recording equipment shall be hidden from 7370
the sight and hearing of the ~~mentally retarded~~ intellectually 7371
disabled or developmentally disabled victim giving the 7372
testimony, in a manner similar to that described in division (B) 7373
(2) of this section. The child who is charged with the violation 7374
or act shall be permitted to observe and hear the testimony of 7375
the ~~mentally retarded~~ intellectually disabled or developmentally 7376
disabled victim giving the testimony on a monitor, shall be 7377
provided with an electronic means of immediate communication 7378
with the attorney of the child who is charged with the violation 7379
or act during the testimony, and shall be restricted to a 7380
location from which the child who is charged with the violation 7381
or act cannot be seen or heard by the ~~mentally retarded~~ 7382
intellectually disabled or developmentally disabled victim 7383
giving the testimony, except on a monitor provided for that 7384
purpose. The ~~mentally retarded~~ intellectually disabled or 7385
developmentally disabled victim giving the testimony shall be 7386
provided with a monitor on which the ~~mentally retarded~~ 7387
intellectually disabled or developmentally disabled victim can 7388
observe, while giving testimony, the child who is charged with 7389
the violation or act. No order for the taking of testimony by 7390
recording shall be issued under this division unless the 7391
provisions set forth in divisions (B) (2) (a), (b), (c), and (d) 7392
of this section apply to the recording of the testimony. 7393

(F) For purposes of divisions (D) and (E) of this section, 7394
a juvenile judge may order the testimony of ~~a mentally retarded~~ 7395
an intellectually disabled or a developmentally disabled victim 7396
to be taken outside of the room in which a proceeding is being 7397
conducted if the judge determines that the ~~mentally retarded~~ 7398
intellectually disabled or developmentally disabled victim is 7399
unavailable to testify in the room in the physical presence of 7400
the child charged with the violation or act due to one or more 7401
of the following circumstances: 7402

(1) The persistent refusal of the ~~mentally retarded~~ 7403
intellectually disabled or developmentally disabled victim to 7404
testify despite judicial requests to do so; 7405

(2) The inability of the ~~mentally retarded~~ intellectually 7406
disabled or developmentally disabled victim to communicate about 7407
the alleged violation or offense because of extreme fear, 7408
failure of memory, or another similar reason; 7409

(3) The substantial likelihood that the ~~mentally retarded~~ 7410
intellectually disabled or developmentally disabled victim will 7411
suffer serious emotional trauma from so testifying. 7412

(G)(1) If a juvenile judge issues an order pursuant to 7413
division (D) or (E) of this section that requires the testimony 7414
of ~~a mentally retarded~~ an intellectually disabled or a 7415
developmentally disabled victim in a juvenile court proceeding 7416
to be taken outside of the room in which the proceeding is being 7417
conducted, the order shall specifically identify the ~~mentally~~ 7418
~~retarded~~ intellectually disabled or developmentally disabled 7419
victim to whose testimony it applies, the order applies only 7420
during the testimony of the specified ~~mentally retarded~~ 7421
intellectually disabled or developmentally disabled victim, and 7422
the ~~mentally retarded~~ intellectually disabled or developmentally 7423

disabled victim giving the testimony shall not be required to 7424
testify at the proceeding other than in accordance with the 7425
order. The authority of a judge to close the taking of a 7426
deposition under division (B) (2) of this section or a proceeding 7427
under division (D) or (E) of this section is in addition to the 7428
authority of a judge to close a hearing pursuant to section 7429
2151.35 of the Revised Code. 7430

(2) A juvenile judge who makes any determination regarding 7431
the admissibility of a deposition under divisions (B) and (C) of 7432
this section, the videotaping of a deposition under division (B) 7433
(2) of this section, or the taking of testimony outside of the 7434
room in which a proceeding is being conducted under division (D) 7435
or (E) of this section shall enter the determination and 7436
findings on the record in the proceeding. 7437

Sec. 2305.111. (A) As used in this section: 7438

(1) "Childhood sexual abuse" means any conduct that 7439
constitutes any of the violations identified in division (A) (1) 7440
(a) or (b) of this section and would constitute a criminal 7441
offense under the specified section or division of the Revised 7442
Code, if the victim of the violation is at the time of the 7443
violation a child under eighteen years of age or ~~a mentally~~ 7444
~~retarded~~ an intellectually disabled, developmentally disabled, 7445
or physically impaired child under twenty-one years of age. The 7446
court need not find that any person has been convicted of or 7447
pleaded guilty to the offense under the specified section or 7448
division of the Revised Code in order for the conduct that is 7449
the violation constituting the offense to be childhood sexual 7450
abuse for purposes of this division. This division applies to 7451
any of the following violations committed in the following 7452
specified circumstances: 7453

- (a) A violation of section 2907.02 or of division (A) (1), 7454
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 7455
of the Revised Code; 7456
- (b) A violation of section 2907.05 or 2907.06 of the 7457
Revised Code if, at the time of the violation, any of the 7458
following apply: 7459
- (i) The actor is the victim's natural parent, adoptive 7460
parent, or stepparent or the guardian, custodian, or person in 7461
loco parentis of the victim. 7462
- (ii) The victim is in custody of law or a patient in a 7463
hospital or other institution, and the actor has supervisory or 7464
disciplinary authority over the victim. 7465
- (iii) The actor is a teacher, administrator, coach, or 7466
other person in authority employed by or serving in a school for 7467
which the state board of education prescribes minimum standards 7468
pursuant to division (D) of section 3301.07 of the Revised Code, 7469
the victim is enrolled in or attends that school, and the actor 7470
is not enrolled in and does not attend that school. 7471
- (iv) The actor is a teacher, administrator, coach, or 7472
other person in authority employed by or serving in an 7473
institution of higher education, and the victim is enrolled in 7474
or attends that institution. 7475
- (v) The actor is the victim's athletic or other type of 7476
coach, is the victim's instructor, is the leader of a scouting 7477
troop of which the victim is a member, or is a person with 7478
temporary or occasional disciplinary control over the victim. 7479
- (vi) The actor is a mental health professional, the victim 7480
is a mental health client or patient of the actor, and the actor 7481
induces the victim to submit by falsely representing to the 7482

victim that the sexual contact involved in the violation is 7483
necessary for mental health treatment purposes. 7484

(vii) The victim is confined in a detention facility, and 7485
the actor is an employee of that detention facility. 7486

(viii) The actor is a cleric, and the victim is a member 7487
of, or attends, the church or congregation served by the cleric. 7488

(2) "Cleric" has the same meaning as in section 2317.02 of 7489
the Revised Code. 7490

(3) "Mental health client or patient" has the same meaning 7491
as in section 2305.51 of the Revised Code. 7492

(4) "Mental health professional" has the same meaning as 7493
in section 2305.115 of the Revised Code. 7494

(5) "Sexual contact" has the same meaning as in section 7495
2907.01 of the Revised Code. 7496

(6) "Victim" means, except as provided in division (B) of 7497
this section, a victim of childhood sexual abuse. 7498

(B) Except as provided in section 2305.115 of the Revised 7499
Code and subject to division (C) of this section, an action for 7500
assault or battery shall be brought within one year after the 7501
cause of the action accrues. For purposes of this section, a 7502
cause of action for assault or battery accrues upon the later of 7503
the following: 7504

(1) The date on which the alleged assault or battery 7505
occurred; 7506

(2) If the plaintiff did not know the identity of the 7507
person who allegedly committed the assault or battery on the 7508
date on which it allegedly occurred, the earlier of the 7509

following dates: 7510

(a) The date on which the plaintiff learns the identity of 7511
that person; 7512

(b) The date on which, by the exercise of reasonable 7513
diligence, the plaintiff should have learned the identity of 7514
that person. 7515

(C) An action for assault or battery brought by a victim 7516
of childhood sexual abuse based on childhood sexual abuse, or an 7517
action brought by a victim of childhood sexual abuse asserting 7518
any claim resulting from childhood sexual abuse, shall be 7519
brought within twelve years after the cause of action accrues. 7520
For purposes of this section, a cause of action for assault or 7521
battery based on childhood sexual abuse, or a cause of action 7522
for a claim resulting from childhood sexual abuse, accrues upon 7523
the date on which the victim reaches the age of majority. If the 7524
defendant in an action brought by a victim of childhood sexual 7525
abuse asserting a claim resulting from childhood sexual abuse 7526
that occurs on or after ~~the effective date of this act~~ August 3, 7527
2006, has fraudulently concealed from the plaintiff facts that 7528
form the basis of the claim, the running of the limitations 7529
period with regard to that claim is tolled until the time when 7530
the plaintiff discovers or in the exercise of due diligence 7531
should have discovered those facts. 7532

Sec. 2311.14. (A) (1) Whenever because of a hearing, 7533
speech, or other impairment a party to or witness in a legal 7534
proceeding cannot readily understand or communicate, the court 7535
shall appoint a qualified interpreter to assist such person. 7536

(2) This section is not limited to a person who speaks a 7537
language other than English. It also applies to the language and 7538

descriptions of any ~~mentally retarded person or developmentally~~ 7539
~~disabled person~~ with an intellectual or developmental disability 7540
who cannot be reasonably understood, or who cannot understand 7541
questioning, without the aid of an interpreter. The interpreter 7542
may aid the parties in formulating methods of questioning the 7543
person with ~~mental retardation~~ an intellectually or a 7544
developmental disability and in interpreting the answers of the 7545
person. 7546

(B) Before entering upon official duties, the interpreter 7547
shall take an oath that the interpreter will make a true 7548
interpretation of the proceedings to the party or witness, and 7549
that the interpreter will truly repeat the statements made by 7550
such party or witness to the court, to the best of the 7551
interpreter's ability. If the interpreter is appointed to assist 7552
~~a mentally retarded~~ an intellectually disabled person or a 7553
developmentally disabled person as described in division (A) (2) 7554
of this section, the oath also shall include an oath that the 7555
interpreter will not prompt, lead, suggest, or otherwise 7556
improperly influence the testimony of the witness or party. 7557

(C) The court shall determine a reasonable fee for all 7558
such interpreter service which shall be paid out of the same 7559
funds as witness fees. If the party taxed with costs is 7560
indigent, the court shall not tax the interpreter's fees as 7561
costs, and the county or, if the court is a municipal court that 7562
is not a county-operated municipal court, the municipal 7563
corporation in which the court is located shall pay the 7564
interpreter's fees. 7565

(D) As used in this section, "~~mentally retarded person~~ 7566
with an intellectual disability" and "~~developmentally disabled~~ 7567
person with a developmental disability" have the same meanings 7568

as in section 5123.01 of the Revised Code. 7569

Sec. 2317.021. (A) As used in division (A) of section 7570
2317.02 of the Revised Code: 7571

"Client" means a person, firm, partnership, corporation, 7572
or other association that, directly or through any 7573
representative, consults an attorney for the purpose of 7574
retaining the attorney or securing legal service or advice from 7575
the attorney in the attorney's professional capacity, or 7576
consults an attorney employee for legal service or advice, and 7577
who communicates, either directly or through an agent, employee, 7578
or other representative, with such attorney; and includes an 7579
incompetent person whose guardian so consults the attorney in 7580
behalf of the incompetent person. 7581

Where a corporation or association is a client having the 7582
privilege and it has been dissolved, the privilege shall extend 7583
to the last board of directors, their successors or assigns, or 7584
to the trustees, their successors or assigns. 7585

This section shall be construed as in addition to, and not 7586
in limitation of, other laws affording protection to 7587
communications under the attorney-client privilege. 7588

(B) As used in this section and in sections 2317.02 and 7589
2317.03 of the Revised Code, "incompetent" or "incompetent 7590
person" means a person who is so mentally impaired as a result 7591
of a mental or physical illness or disability, or ~~mental~~ 7592
~~retardation~~ intellectual disability, or as a result of chronic 7593
substance abuse, that the person is incapable of taking proper 7594
care of the person's self or property or fails to provide for 7595
the person's family or other persons for whom the person is 7596
charged by law to provide. 7597

Sec. 2503.37. Cases commenced in or taken to the supreme 7598
court shall be entered on the docket in the order in which they 7599
are commenced, received, or filed. They shall be disposed of in 7600
the same order, except that the court may dispose of the 7601
following classes of cases in advance of their order on the 7602
docket: 7603

(A) Proceedings in quo warranto, mandamus, procedendo, 7604
prohibition, or habeas corpus; 7605

(B) Cases in which the person seeking relief has been 7606
convicted of felony; 7607

(C) Cases involving the validity of a tax levy or 7608
assessment; 7609

(D) Cases involving the construction or constitutionality 7610
of a statute, or a question of practice, in which the questions 7611
arising are of general public interest; 7612

(E) Cases of general interest to the public, if two or 7613
more of the courts of appeals have held the law directly 7614
opposite upon like facts; 7615

(F) Cases in which the relief sought is damages for 7616
personal injury, or for death caused by negligence, and in which 7617
the person injured makes affidavit that the person's livelihood 7618
is dependent upon daily labor, or, in case of death, in which 7619
the surviving spouse or any of the next of kin of the deceased 7620
makes an affidavit that the surviving spouse or next of kin was 7621
dependent for livelihood upon the person's or the decedent's 7622
daily labor; 7623

(G) Cases in which a trust fund for the care, support, or 7624
education of a minor, or care or support of ~~a mentally retarded~~ 7625
an intellectually disabled person, is in question; 7626

(H) Cases involving controversies or questions arising in the administration of the estate of a deceased person under the laws of this state;

(I) Cases involving the construction of a statute for the annexation of territory to a municipal corporation.

Sec. 2721.05. As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or ~~mental retardation~~ intellectual disability, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, an incompetent person, or an insolvent person, may have a declaration of rights or legal relations in respect thereto in any of the following cases:

(A) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(B) To direct the executors, administrators, trustees, or other fiduciaries to do or abstain from doing any particular act in their fiduciary capacity;

(C) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Sec. 2744.01. As used in this chapter:

(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2152.19 or 2152.20 of the Revised Code to perform community service or community work in a political subdivision.

(C) (1) "Governmental function" means a function of a political subdivision that is specified in division (C) (2) of this section or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G) (2) of this section as a proprietary function.

(2) A "governmental function" includes, but is not limited to, the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses;

(h) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as

defined in section 2921.01 of the Revised Code; 7714

(i) The enforcement or nonperformance of any law; 7715

(j) The regulation of traffic, and the erection or 7716
nonerection of traffic signs, signals, or control devices; 7717

(k) The collection and disposal of solid wastes, as 7718
defined in section 3734.01 of the Revised Code, including, but 7719
not limited to, the operation of solid waste disposal 7720
facilities, as "facilities" is defined in that section, and the 7721
collection and management of hazardous waste generated by 7722
households. As used in division (C) (2) (k) of this section, 7723
"hazardous waste generated by households" means solid waste 7724
originally generated by individual households that is listed 7725
specifically as hazardous waste in or exhibits one or more 7726
characteristics of hazardous waste as defined by rules adopted 7727
under section 3734.12 of the Revised Code, but that is excluded 7728
from regulation as a hazardous waste by those rules. 7729

(l) The provision or nonprovision, planning or design, 7730
construction, or reconstruction of a public improvement, 7731
including, but not limited to, a sewer system; 7732

(m) The operation of a job and family services department 7733
or agency, including, but not limited to, the provision of 7734
assistance to aged and infirm persons and to persons who are 7735
indigent; 7736

(n) The operation of a health board, department, or 7737
agency, including, but not limited to, any statutorily required 7738
or permissive program for the provision of immunizations or 7739
other inoculations to all or some members of the public, 7740
provided that a "governmental function" does not include the 7741
supply, manufacture, distribution, or development of any drug or 7742

vaccine employed in any such immunization or inoculation program 7743
by any supplier, manufacturer, distributor, or developer of the 7744
drug or vaccine; 7745

(o) The operation of mental health facilities, ~~mental-~~ 7746
~~retardation~~ intellectual disabilities or developmental 7747
disabilities facilities, alcohol treatment and control centers, 7748
and children's homes or agencies; 7749

(p) The provision or nonprovision of inspection services 7750
of all types, including, but not limited to, inspections in 7751
connection with building, zoning, sanitation, fire, plumbing, 7752
and electrical codes, and the taking of actions in connection 7753
with those types of codes, including, but not limited to, the 7754
approval of plans for the construction of buildings or 7755
structures and the issuance or revocation of building permits or 7756
stop work orders in connection with buildings or structures; 7757

(q) Urban renewal projects and the elimination of slum 7758
conditions, including the performance of any activity that a 7759
county land reutilization corporation is authorized to perform 7760
under Chapter 1724. or 5722. of the Revised Code; 7761

(r) Flood control measures; 7762

(s) The design, construction, reconstruction, renovation, 7763
operation, care, repair, and maintenance of a township cemetery; 7764

(t) The issuance of revenue obligations under section 7765
140.06 of the Revised Code; 7766

(u) The design, construction, reconstruction, renovation, 7767
repair, maintenance, and operation of any school athletic 7768
facility, school auditorium, or gymnasium or any recreational 7769
area or facility, including, but not limited to, any of the 7770
following: 7771

(i) A park, playground, or playfield;	7772
(ii) An indoor recreational facility;	7773
(iii) A zoo or zoological park;	7774
(iv) A bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility;	7775 7776
(v) A golf course;	7777
(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;	7778 7779 7780
(vii) A rope course or climbing walls;	7781
(viii) An all-purpose vehicle facility in which all- purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.	7782 7783 7784 7785
(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;	7786 7787 7788
(w) (i) At any time before regulations prescribed pursuant to 49 U.S.C.A 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells;	7789 7790 7791 7792 7793 7794 7795
(ii) On and after the effective date of regulations prescribed pursuant to 49 U.S.C.A. 20153, the designation, establishment, design, construction, implementation, operation,	7796 7797 7798

repair, or maintenance of a public road rail crossing in such a 7799
zone or of a supplementary safety measure, as defined in 49 7800
U.S.C.A 20153, at or for a public road rail crossing, if and to 7801
the extent that the public road rail crossing is excepted, 7802
pursuant to subsection (c) of that section, from the requirement 7803
of the regulations prescribed under subsection (b) of that 7804
section. 7805

(x) A function that the general assembly mandates a 7806
political subdivision to perform. 7807

(D) "Law" means any provision of the constitution, 7808
statutes, or rules of the United States or of this state; 7809
provisions of charters, ordinances, resolutions, and rules of 7810
political subdivisions; and written policies adopted by boards 7811
of education. When used in connection with the "common law," 7812
this definition does not apply. 7813

(E) "Motor vehicle" has the same meaning as in section 7814
4511.01 of the Revised Code. 7815

(F) "Political subdivision" or "subdivision" means a 7816
municipal corporation, township, county, school district, or 7817
other body corporate and politic responsible for governmental 7818
activities in a geographic area smaller than that of the state. 7819
"Political subdivision" includes, but is not limited to, a 7820
county hospital commission appointed under section 339.14 of the 7821
Revised Code, board of hospital commissioners appointed for a 7822
municipal hospital under section 749.04 of the Revised Code, 7823
board of hospital trustees appointed for a municipal hospital 7824
under section 749.22 of the Revised Code, regional planning 7825
commission created pursuant to section 713.21 of the Revised 7826
Code, county planning commission created pursuant to section 7827
713.22 of the Revised Code, joint planning council created 7828

pursuant to section 713.231 of the Revised Code, interstate 7829
regional planning commission created pursuant to section 713.30 7830
of the Revised Code, port authority created pursuant to section 7831
4582.02 or 4582.26 of the Revised Code or in existence on 7832
December 16, 1964, regional council established by political 7833
subdivisions pursuant to Chapter 167. of the Revised Code, 7834
emergency planning district and joint emergency planning 7835
district designated under section 3750.03 of the Revised Code, 7836
joint emergency medical services district created pursuant to 7837
section 307.052 of the Revised Code, fire and ambulance district 7838
created pursuant to section 505.375 of the Revised Code, joint 7839
interstate emergency planning district established by an 7840
agreement entered into under that section, county solid waste 7841
management district and joint solid waste management district 7842
established under section 343.01 or 343.012 of the Revised Code, 7843
community school established under Chapter 3314. of the Revised 7844
Code, county land reutilization corporation organized under 7845
Chapter 1724. of the Revised Code, the county or counties served 7846
by a community-based correctional facility and program or 7847
district community-based correctional facility and program 7848
established and operated under sections 2301.51 to 2301.58 of 7849
the Revised Code, a community-based correctional facility and 7850
program or district community-based correctional facility and 7851
program that is so established and operated, and the facility 7852
governing board of a community-based correctional facility and 7853
program or district community-based correctional facility and 7854
program that is so established and operated. 7855

(G) (1) "Proprietary function" means a function of a 7856
political subdivision that is specified in division (G) (2) of 7857
this section or that satisfies both of the following: 7858

(a) The function is not one described in division (C) (1) 7859

(a) or (b) of this section and is not one specified in division 7860
(C) (2) of this section; 7861

(b) The function is one that promotes or preserves the 7862
public peace, health, safety, or welfare and that involves 7863
activities that are customarily engaged in by nongovernmental 7864
persons. 7865

(2) A "proprietary function" includes, but is not limited 7866
to, the following: 7867

(a) The operation of a hospital by one or more political 7868
subdivisions; 7869

(b) The design, construction, reconstruction, renovation, 7870
repair, maintenance, and operation of a public cemetery other 7871
than a township cemetery; 7872

(c) The establishment, maintenance, and operation of a 7873
utility, including, but not limited to, a light, gas, power, or 7874
heat plant, a railroad, a busline or other transit company, an 7875
airport, and a municipal corporation water supply system; 7876

(d) The maintenance, destruction, operation, and upkeep of 7877
a sewer system; 7878

(e) The operation and control of a public stadium, 7879
auditorium, civic or social center, exhibition hall, arts and 7880
crafts center, band or orchestra, or off-street parking 7881
facility. 7882

(H) "Public roads" means public roads, highways, streets, 7883
avenues, alleys, and bridges within a political subdivision. 7884
"Public roads" does not include berms, shoulders, rights-of-way, 7885
or traffic control devices unless the traffic control devices 7886
are mandated by the Ohio manual of uniform traffic control 7887

devices. 7888

(I) "State" means the state of Ohio, including, but not 7889
limited to, the general assembly, the supreme court, the offices 7890
of all elected state officers, and all departments, boards, 7891
offices, commissions, agencies, colleges and universities, 7892
institutions, and other instrumentalities of the state of Ohio. 7893
"State" does not include political subdivisions. 7894

Sec. 2901.13. (A) (1) Except as provided in division (A) (2) 7895
or (3) of this section or as otherwise provided in this section, 7896
a prosecution shall be barred unless it is commenced within the 7897
following periods after an offense is committed: 7898

(a) For a felony, six years; 7899

(b) For a misdemeanor other than a minor misdemeanor, two 7900
years; 7901

(c) For a minor misdemeanor, six months. 7902

(2) There is no period of limitation for the prosecution 7903
of a violation of section 2903.01 or 2903.02 of the Revised 7904
Code. 7905

(3) Except as otherwise provided in divisions (B) to (H) 7906
of this section, a prosecution of any of the following offenses 7907
shall be barred unless it is commenced within twenty years after 7908
the offense is committed: 7909

(a) A violation of section 2903.03, 2903.04, 2905.01, 7910
2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 7911
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 7912
2911.01, 2911.02, 2911.11, 2911.12, or 2917.02 of the Revised 7913
Code, a violation of section 2903.11 or 2903.12 of the Revised 7914
Code if the victim is a peace officer, a violation of section 7915

2903.13 of the Revised Code that is a felony, or a violation of 7916
former section 2907.12 of the Revised Code; 7917

(b) A conspiracy to commit, attempt to commit, or 7918
complicity in committing a violation set forth in division (A) 7919
(3) (a) of this section. 7920

(B) (1) Except as otherwise provided in division (B) (2) of 7921
this section, if the period of limitation provided in division 7922
(A) (1) or (3) of this section has expired, prosecution shall be 7923
commenced for an offense of which an element is fraud or breach 7924
of a fiduciary duty, within one year after discovery of the 7925
offense either by an aggrieved person, or by the aggrieved 7926
person's legal representative who is not a party to the offense. 7927

(2) If the period of limitation provided in division (A) 7928
(1) or (3) of this section has expired, prosecution for a 7929
violation of section 2913.49 of the Revised Code shall be 7930
commenced within five years after discovery of the offense 7931
either by an aggrieved person or the aggrieved person's legal 7932
representative who is not a party to the offense. 7933

(C) (1) If the period of limitation provided in division 7934
(A) (1) or (3) of this section has expired, prosecution shall be 7935
commenced for the following offenses during the following 7936
specified periods of time: 7937

(a) For an offense involving misconduct in office by a 7938
public servant, at any time while the accused remains a public 7939
servant, or within two years thereafter; 7940

(b) For an offense by a person who is not a public servant 7941
but whose offense is directly related to the misconduct in 7942
office of a public servant, at any time while that public 7943
servant remains a public servant, or within two years 7944

thereafter. 7945

(2) As used in this division: 7946

(a) An "offense is directly related to the misconduct in 7947
office of a public servant" includes, but is not limited to, a 7948
violation of section 101.71, 101.91, 121.61 or 2921.13, division 7949
(F) or (H) of section 102.03, division (A) of section 2921.02, 7950
division (A) or (B) of section 2921.43, or division (F) or (G) 7951
of section 3517.13 of the Revised Code, that is directly related 7952
to an offense involving misconduct in office of a public 7953
servant. 7954

(b) "Public servant" has the same meaning as in section 7955
2921.01 of the Revised Code. 7956

(D) An offense is committed when every element of the 7957
offense occurs. In the case of an offense of which an element is 7958
a continuing course of conduct, the period of limitation does 7959
not begin to run until such course of conduct or the accused's 7960
accountability for it terminates, whichever occurs first. 7961

(E) A prosecution is commenced on the date an indictment 7962
is returned or an information filed, or on the date a lawful 7963
arrest without a warrant is made, or on the date a warrant, 7964
summons, citation, or other process is issued, whichever occurs 7965
first. A prosecution is not commenced by the return of an 7966
indictment or the filing of an information unless reasonable 7967
diligence is exercised to issue and execute process on the same. 7968
A prosecution is not commenced upon issuance of a warrant, 7969
summons, citation, or other process, unless reasonable diligence 7970
is exercised to execute the same. 7971

(F) The period of limitation shall not run during any time 7972
when the corpus delicti remains undiscovered. 7973

(G) The period of limitation shall not run during any time 7974
when the accused purposely avoids prosecution. Proof that the 7975
accused departed this state or concealed the accused's identity 7976
or whereabouts is prima-facie evidence of the accused's purpose 7977
to avoid prosecution. 7978

(H) The period of limitation shall not run during any time 7979
a prosecution against the accused based on the same conduct is 7980
pending in this state, even though the indictment, information, 7981
or process that commenced the prosecution is quashed or the 7982
proceedings on the indictment, information, or process are set 7983
aside or reversed on appeal. 7984

(I) The period of limitation for a violation of any 7985
provision of Title XXIX of the Revised Code that involves a 7986
physical or mental wound, injury, disability, or condition of a 7987
nature that reasonably indicates abuse or neglect of a child 7988
under eighteen years of age or of ~~a mentally retarded~~ an 7989
intellectually disabled, developmentally disabled, or physically 7990
impaired child under twenty-one years of age shall not begin to 7991
run until either of the following occurs: 7992

(1) The victim of the offense reaches the age of majority. 7993

(2) A public children services agency, or a municipal or 7994
county peace officer that is not the parent or guardian of the 7995
child, in the county in which the child resides or in which the 7996
abuse or neglect is occurring or has occurred has been notified 7997
that abuse or neglect is known, suspected, or believed to have 7998
occurred. 7999

(J) As used in this section, "peace officer" has the same 8000
meaning as in section 2935.01 of the Revised Code. 8001

Sec. 2903.341. (A) As used in this section: 8002

(1) "~~MR/DD-ID/DD~~ caretaker" means any ~~MR/DD-ID/DD~~ employee 8003
or any person who assumes the duty to provide for the care and 8004
protection of a ~~mentally retarded person or a developmentally~~ 8005
~~disabled~~ person with an intellectual or developmental disability 8006
on a voluntary basis, by contract, through receipt of payment 8007
for care and protection, as a result of a family relationship, 8008
or by order of a court of competent jurisdiction. "~~MR/DD-ID/DD~~ 8009
caretaker" includes a person who is an employee of a care 8010
facility and a person who is an employee of an entity under 8011
contract with a provider. "~~MR/DD-ID/DD~~ caretaker" does not 8012
include a person who owns, operates, or administers a care 8013
facility or who is an agent of a care facility unless that 8014
person also personally provides care to persons with ~~mental-~~ 8015
~~retardation~~ an intellectual or a developmental disability. 8016

(2) "~~Mentally retarded person~~Person with an intellectual 8017
disability" and "~~developmentally disabled person with a~~ 8018
developmental disability" have the same meanings as in section 8019
5123.01 of the Revised Code. 8020

(3) "~~MR/DD-ID/DD~~ employee" has the same meaning as in 8021
section 5123.50 of the Revised Code. 8022

(B) No ~~MR/DD-ID/DD~~ caretaker shall create a substantial 8023
risk to the health or safety of a ~~mentally retarded person or a~~ 8024
~~developmentally disabled person with an intellectual or~~ 8025
developmental disability. An ~~MR/DD-ID/DD~~ caretaker does not 8026
create a substantial risk to the health or safety of a ~~mentally-~~ 8027
~~retarded person or a developmentally disabled~~ such a person 8028
under this division when the ~~MR/DD-ID/DD~~ caretaker treats a 8029
physical or mental illness or defect of the ~~mentally retarded-~~ 8030
~~person or developmentally disabled person~~ by spiritual means 8031
through prayer alone, in accordance with the tenets of a 8032

recognized religious body. 8033

(C) No person who owns, operates, or administers a care 8034
facility or who is an agent of a care facility shall condone, or 8035
knowingly permit, any conduct by an ~~MR/DD-ID/DD~~ caretaker who is 8036
employed by or under the control of the owner, operator, 8037
administrator, or agent that is in violation of division (B) of 8038
this section and that involves ~~a mentally retarded an~~ 8039
intellectually disabled person or a developmentally disabled 8040
person who is under the care of the owner, operator, 8041
administrator, or agent. A person who relies upon treatment by 8042
spiritual means through prayer alone, in accordance with the 8043
tenets of a recognized religious denomination, shall not be 8044
considered endangered under this division for that reason alone. 8045

(D) (1) It is an affirmative defense to a charge of a 8046
violation of division (B) or (C) of this section that the 8047
actor's conduct was committed in good faith solely because the 8048
actor was ordered to commit the conduct by a person to whom one 8049
of the following applies: 8050

(a) The person has supervisory authority over the actor. 8051

(b) The person has authority over the actor's conduct 8052
pursuant to a contract for the provision of services. 8053

(2) It is an affirmative defense to a charge of a 8054
violation of division (C) of this section that the person who 8055
owns, operates, or administers a care facility or who is an 8056
agent of a care facility and who is charged with the violation 8057
is following the individual service plan for the involved 8058
~~mentally retarded person or a developmentally disabled person~~ 8059
with an intellectual or developmental disability or that the 8060
admission, discharge, and transfer rule set forth in the 8061

Administrative Code is being followed. 8062

(3) It is an affirmative defense to a charge of a 8063
violation of division (C) of this section that the actor did not 8064
have readily available a means to prevent either the harm to the 8065
person with ~~mental retardation~~ an intellectual or a 8066
developmental disability or the death of such a person and the 8067
actor took reasonable steps to summon aid. 8068

(E) (1) Except as provided in division (E) (2) or (E) (3) of 8069
this section, whoever violates division (B) or (C) of this 8070
section is guilty of patient endangerment, a misdemeanor of the 8071
first degree. 8072

(2) If the offender previously has been convicted of, or 8073
pleaded guilty to, a violation of this section, patient 8074
endangerment is a felony of the fourth degree. 8075

(3) If the violation results in serious physical harm to 8076
the person with ~~mental retardation~~ an intellectual or a 8077
developmental disability, patient endangerment is a felony of 8078
the third degree. 8079

Sec. 2905.32. (A) No person shall knowingly recruit, lure, 8080
entice, isolate, harbor, transport, provide, obtain, or 8081
maintain, or knowingly attempt to recruit, lure, entice, 8082
isolate, harbor, transport, provide, obtain, or maintain, 8083
another person if any of the following applies: 8084

(1) The offender knows that the other person will be 8085
subjected to involuntary servitude or be compelled to engage in 8086
sexual activity for hire, engage in a performance that is 8087
obscene, sexually oriented, or nudity oriented, or be a model or 8088
participant in the production of material that is obscene, 8089
sexually oriented, or nudity oriented. 8090

(2) The other person is less than sixteen years of age or 8091
is a ~~developmentally disabled person~~ with a developmental 8092
disability whom the offender knows or has reasonable cause to 8093
believe is a ~~developmentally disabled person~~ with a 8094
developmental disability, and either the offender knows that the 8095
other person will be subjected to involuntary servitude or the 8096
offender's knowing recruitment, luring, enticement, isolation, 8097
harboring, transportation, provision, obtaining, or maintenance 8098
of the other person or knowing attempt to recruit, lure, entice, 8099
isolate, harbor, transport, provide, obtain, or maintain the 8100
other person is for any of the following purposes: 8101

(a) To engage in sexual activity for hire; 8102

(b) To engage in a performance for hire that is obscene, 8103
sexually oriented, or nudity oriented; 8104

(c) To be a model or participant for hire in the 8105
production of material that is obscene, sexually oriented, or 8106
nudity oriented. 8107

(3) The other person is sixteen or seventeen years of age, 8108
either the offender knows that the other person will be 8109
subjected to involuntary servitude or the offender's knowing 8110
recruitment, luring, enticement, isolation, harboring, 8111
transportation, provision, obtaining, or maintenance of the 8112
other person or knowing attempt to recruit, lure, entice, 8113
isolate, harbor, transport, provide, obtain, or maintain the 8114
other person is for any purpose described in divisions (A) (2) (a) 8115
to (c) of this section, and the circumstances described in 8116
division (A) (5), (6), (7), (8), (9), (10), (11), (12), or (13) 8117
of section 2907.03 of the Revised Code apply with respect to the 8118
offender and the other person. 8119

(B) For a prosecution under division (A) (1) of this section, the element "compelled" does not require that the compulsion be openly displayed or physically exerted. The element "compelled" has been established if the state proves that the victim's will was overcome by force, fear, duress, intimidation, or fraud.

(C) In a prosecution under this section, proof that the defendant engaged in sexual activity with any person, or solicited sexual activity with any person, whether or not for hire, without more, does not constitute a violation of this section.

(D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of section 2907.21 of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, or is convicted of or pleads guilty to any other violation of Chapter 2907. of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

(E) Whoever violates this section is guilty of trafficking in persons, a felony of the first degree. Notwithstanding division (A) (1) of section 2929.14 of the Revised Code, the

court shall sentence the offender to a definite prison term of 8150
ten, eleven, twelve, thirteen, fourteen, or fifteen years. 8151

(F) As used in this section: 8152

(1) "~~Developmentally disabled person~~Person with a 8153
developmental disability" means a person whose ability to resist 8154
or consent to an act is substantially impaired because of a 8155
mental or physical condition or because of advanced age. 8156

(2) "Sexual activity for hire," "performance for hire," 8157
and "model or participant for hire" mean an implicit or explicit 8158
agreement to provide sexual activity, engage in an obscene, 8159
sexually oriented, or nudity oriented performance, or be a model 8160
or participant in the production of obscene, sexually oriented, 8161
or nudity oriented material, whichever is applicable, in 8162
exchange for anything of value paid to any of the following: 8163

(a) The person engaging in such sexual activity, 8164
performance, or modeling or participation; 8165

(b) Any person who recruits, lures, entices, isolates, 8166
harbors, transports, provides, obtains, or maintains, or 8167
attempts to recruit, lure, entice, isolate, harbor, transport, 8168
provide, obtain, or maintain the person described in division 8169
(F) (2) (a) of this section; 8170

(c) Any person associated with a person described in 8171
division (F) (2) (a) or (b) of this section. 8172

(3) "Material that is obscene, sexually oriented, or 8173
nudity oriented" and "performance that is obscene, sexually 8174
oriented, or nudity oriented" have the same meanings as in 8175
section 2929.01 of the Revised Code. 8176

Sec. 2907.24. (A) (1) No person shall solicit another who 8177

is eighteen years of age or older to engage with such other 8178
person in sexual activity for hire. 8179

(2) No person shall solicit another to engage with such 8180
other person in sexual activity for hire if the other person is 8181
sixteen or seventeen years of age and the offender knows that 8182
the other person is sixteen or seventeen years of age or is 8183
reckless in that regard. 8184

(3) No person shall solicit another to engage with such 8185
other person in sexual activity for hire if either of the 8186
following applies: 8187

(a) The other person is less than sixteen years of age, 8188
whether or not the offender knows the age of the other person. 8189

(b) The other person is a ~~developmentally disabled person~~ 8190
with a developmental disability and the offender knows or has 8191
reasonable cause to believe the other person is a 8192
~~developmentally disabled person~~ with a developmental disability. 8193

(B) No person, with knowledge that the person has tested 8194
positive as a carrier of a virus that causes acquired 8195
immunodeficiency syndrome, shall engage in conduct in violation 8196
of division (A) of this section. 8197

(C) (1) Whoever violates division (A) of this section is 8198
guilty of soliciting. A violation of division (A) (1) of this 8199
section is a misdemeanor of the third degree. A violation of 8200
division (A) (2) of this section is a felony of the fifth degree. 8201
A violation of division (A) (3) of this section is a felony of 8202
the third degree. 8203

(2) Whoever violates division (B) of this section is 8204
guilty of engaging in solicitation after a positive HIV test. If 8205
the offender commits the violation prior to July 1, 1996, 8206

engaging in solicitation after a positive HIV test is a felony 8207
of the second degree. If the offender commits the violation on 8208
or after July 1, 1996, engaging in solicitation after a positive 8209
HIV test is a felony of the third degree. 8210

(D) If a person is convicted of or pleads guilty to a 8211
violation of any provision of this section, an attempt to commit 8212
a violation of any provision of this section, or a violation of 8213
or an attempt to commit a violation of a municipal ordinance 8214
that is substantially equivalent to any provision of this 8215
section and if the person, in committing or attempting to commit 8216
the violation, was in, was on, or used a motor vehicle, the 8217
court, in addition to or independent of all other penalties 8218
imposed for the violation, may impose upon the offender a class 8219
six suspension of the person's driver's license, commercial 8220
driver's license, temporary instruction permit, probationary 8221
license, or nonresident operating privilege from the range 8222
specified in division (A) (6) of section 4510.02 of the Revised 8223
Code. In lieu of imposing upon the offender the class six 8224
suspension, the court instead may require the offender to 8225
perform community service for a number of hours determined by 8226
the court. 8227

(E) As used in this section: 8228

(1) "~~Developmentally disabled person~~Person with a 8229
developmental disability" has the same meaning as in section 8230
2905.32 of the Revised Code. 8231

(2) "Sexual activity for hire" means an implicit or 8232
explicit agreement to provide sexual activity in exchange for 8233
anything of value paid to the person engaging in such sexual 8234
activity, to any person trafficking that person, or to any 8235
person associated with either such person. 8236

Sec. 2919.23. (A) No person, knowing the person is without 8237
privilege to do so or being reckless in that regard, shall 8238
entice, take, keep, or harbor a person identified in division 8239
(A) (1), (2), or (3) of this section from the parent, guardian, 8240
or custodian of the person identified in division (A) (1), (2), 8241
or (3) of this section: 8242

(1) A child under the age of eighteen, or a mentally or 8243
physically handicapped child under the age of twenty-one; 8244

(2) A person committed by law to an institution for 8245
delinquent, unruly, neglected, abused, or dependent children; 8246

(3) A person committed by law to an institution for the 8247
mentally ill or ~~mentally retarded~~ intellectually disabled. 8248

(B) No person shall aid, abet, induce, cause, or encourage 8249
a child or a ward of the juvenile court who has been committed 8250
to the custody of any person, department, or public or private 8251
institution to leave the custody of that person, department, or 8252
institution without legal consent. 8253

(C) It is an affirmative defense to a charge of enticing 8254
or taking under division (A) (1) of this section, that the actor 8255
reasonably believed that the actor's conduct was necessary to 8256
preserve the child's health or safety. It is an affirmative 8257
defense to a charge of keeping or harboring under division (A) 8258
of this section, that the actor in good faith gave notice to law 8259
enforcement or judicial authorities within a reasonable time 8260
after the child or committed person came under the actor's 8261
shelter, protection, or influence. 8262

(D) (1) Whoever violates this section is guilty of 8263
interference with custody. 8264

(2) Except as otherwise provided in this division, a 8265

violation of division (A) (1) of this section is a misdemeanor of 8266
the first degree. If the child who is the subject of a violation 8267
of division (A) (1) of this section is removed from the state or 8268
if the offender previously has been convicted of an offense 8269
under this section, a violation of division (A) (1) of this 8270
section is a felony of the fifth degree. If the child who is the 8271
subject of a violation of division (A) (1) of this section 8272
suffers physical harm as a result of the violation, a violation 8273
of division (A) (1) of this section is a felony of the fourth 8274
degree. 8275

(3) A violation of division (A) (2) or (3) of this section 8276
is a misdemeanor of the third degree. 8277

(4) A violation of division (B) of this section is a 8278
misdemeanor of the first degree. Each day of violation of 8279
division (B) of this section is a separate offense. 8280

Sec. 2929.01. As used in this chapter: 8281

(A) (1) "Alternative residential facility" means, subject 8282
to division (A) (2) of this section, any facility other than an 8283
offender's home or residence in which an offender is assigned to 8284
live and that satisfies all of the following criteria: 8285

(a) It provides programs through which the offender may 8286
seek or maintain employment or may receive education, training, 8287
treatment, or habilitation. 8288

(b) It has received the appropriate license or certificate 8289
for any specialized education, training, treatment, 8290
habilitation, or other service that it provides from the 8291
government agency that is responsible for licensing or 8292
certifying that type of education, training, treatment, 8293
habilitation, or service. 8294

(2) "Alternative residential facility" does not include a 8295
community-based correctional facility, jail, halfway house, or 8296
prison. 8297

(B) "Basic probation supervision" means a requirement that 8298
the offender maintain contact with a person appointed to 8299
supervise the offender in accordance with sanctions imposed by 8300
the court or imposed by the parole board pursuant to section 8301
2967.28 of the Revised Code. "Basic probation supervision" 8302
includes basic parole supervision and basic post-release control 8303
supervision. 8304

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have 8305
the same meanings as in section 2925.01 of the Revised Code. 8306

(D) "Community-based correctional facility" means a 8307
community-based correctional facility and program or district 8308
community-based correctional facility and program developed 8309
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 8310

(E) "Community control sanction" means a sanction that is 8311
not a prison term and that is described in section 2929.15, 8312
2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction 8313
that is not a jail term and that is described in section 8314
2929.26, 2929.27, or 2929.28 of the Revised Code. "Community 8315
control sanction" includes probation if the sentence involved 8316
was imposed for a felony that was committed prior to July 1, 8317
1996, or if the sentence involved was imposed for a misdemeanor 8318
that was committed prior to January 1, 2004. 8319

(F) "Controlled substance," "marihuana," "schedule I," and 8320
"schedule II" have the same meanings as in section 3719.01 of 8321
the Revised Code. 8322

(G) "Curfew" means a requirement that an offender during a 8323

specified period of time be at a designated place. 8324

(H) "Day reporting" means a sanction pursuant to which an 8325
offender is required each day to report to and leave a center or 8326
other approved reporting location at specified times in order to 8327
participate in work, education or training, treatment, and other 8328
approved programs at the center or outside the center. 8329

(I) "Deadly weapon" has the same meaning as in section 8330
2923.11 of the Revised Code. 8331

(J) "Drug and alcohol use monitoring" means a program 8332
under which an offender agrees to submit to random chemical 8333
analysis of the offender's blood, breath, or urine to determine 8334
whether the offender has ingested any alcohol or other drugs. 8335

(K) "Drug treatment program" means any program under which 8336
a person undergoes assessment and treatment designed to reduce 8337
or completely eliminate the person's physical or emotional 8338
reliance upon alcohol, another drug, or alcohol and another drug 8339
and under which the person may be required to receive assessment 8340
and treatment on an outpatient basis or may be required to 8341
reside at a facility other than the person's home or residence 8342
while undergoing assessment and treatment. 8343

(L) "Economic loss" means any economic detriment suffered 8344
by a victim as a direct and proximate result of the commission 8345
of an offense and includes any loss of income due to lost time 8346
at work because of any injury caused to the victim, and any 8347
property loss, medical cost, or funeral expense incurred as a 8348
result of the commission of the offense. "Economic loss" does 8349
not include non-economic loss or any punitive or exemplary 8350
damages. 8351

(M) "Education or training" includes study at, or in 8352

conjunction with a program offered by, a university, college, or 8353
technical college or vocational study and also includes the 8354
completion of primary school, secondary school, and literacy 8355
curricula or their equivalent. 8356

(N) "Firearm" has the same meaning as in section 2923.11 8357
of the Revised Code. 8358

(O) "Halfway house" means a facility licensed by the 8359
division of parole and community services of the department of 8360
rehabilitation and correction pursuant to section 2967.14 of the 8361
Revised Code as a suitable facility for the care and treatment 8362
of adult offenders. 8363

(P) "House arrest" means a period of confinement of an 8364
offender that is in the offender's home or in other premises 8365
specified by the sentencing court or by the parole board 8366
pursuant to section 2967.28 of the Revised Code and during which 8367
all of the following apply: 8368

(1) The offender is required to remain in the offender's 8369
home or other specified premises for the specified period of 8370
confinement, except for periods of time during which the 8371
offender is at the offender's place of employment or at other 8372
premises as authorized by the sentencing court or by the parole 8373
board. 8374

(2) The offender is required to report periodically to a 8375
person designated by the court or parole board. 8376

(3) The offender is subject to any other restrictions and 8377
requirements that may be imposed by the sentencing court or by 8378
the parole board. 8379

(Q) "Intensive probation supervision" means a requirement 8380
that an offender maintain frequent contact with a person 8381

appointed by the court, or by the parole board pursuant to 8382
section 2967.28 of the Revised Code, to supervise the offender 8383
while the offender is seeking or maintaining necessary 8384
employment and participating in training, education, and 8385
treatment programs as required in the court's or parole board's 8386
order. "Intensive probation supervision" includes intensive 8387
parole supervision and intensive post-release control 8388
supervision. 8389

(R) "Jail" means a jail, workhouse, minimum security jail, 8390
or other residential facility used for the confinement of 8391
alleged or convicted offenders that is operated by a political 8392
subdivision or a combination of political subdivisions of this 8393
state. 8394

(S) "Jail term" means the term in a jail that a sentencing 8395
court imposes or is authorized to impose pursuant to section 8396
2929.24 or 2929.25 of the Revised Code or pursuant to any other 8397
provision of the Revised Code that authorizes a term in a jail 8398
for a misdemeanor conviction. 8399

(T) "Mandatory jail term" means the term in a jail that a 8400
sentencing court is required to impose pursuant to division (G) 8401
of section 1547.99 of the Revised Code, division (E) of section 8402
2903.06 or division (D) of section 2903.08 of the Revised Code, 8403
division (E) or (G) of section 2929.24 of the Revised Code, 8404
division (B) of section 4510.14 of the Revised Code, or division 8405
(G) of section 4511.19 of the Revised Code or pursuant to any 8406
other provision of the Revised Code that requires a term in a 8407
jail for a misdemeanor conviction. 8408

(U) "Delinquent child" has the same meaning as in section 8409
2152.02 of the Revised Code. 8410

(V) "License violation report" means a report that is made 8411
by a sentencing court, or by the parole board pursuant to 8412
section 2967.28 of the Revised Code, to the regulatory or 8413
licensing board or agency that issued an offender a professional 8414
license or a license or permit to do business in this state and 8415
that specifies that the offender has been convicted of or 8416
pleaded guilty to an offense that may violate the conditions 8417
under which the offender's professional license or license or 8418
permit to do business in this state was granted or an offense 8419
for which the offender's professional license or license or 8420
permit to do business in this state may be revoked or suspended. 8421

(W) "Major drug offender" means an offender who is 8422
convicted of or pleads guilty to the possession of, sale of, or 8423
offer to sell any drug, compound, mixture, preparation, or 8424
substance that consists of or contains at least one thousand 8425
grams of hashish; at least one hundred grams of cocaine; at 8426
least two thousand five hundred unit doses or two hundred fifty 8427
grams of heroin; at least five thousand unit doses of L.S.D. or 8428
five hundred grams of L.S.D. in a liquid concentrate, liquid 8429
extract, or liquid distillate form; at least fifty grams of a 8430
controlled substance analog; or at least one hundred times the 8431
amount of any other schedule I or II controlled substance other 8432
than marihuana that is necessary to commit a felony of the third 8433
degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 8434
of the Revised Code that is based on the possession of, sale of, 8435
or offer to sell the controlled substance. 8436

(X) "Mandatory prison term" means any of the following: 8437

(1) Subject to division (X)(2) of this section, the term 8438
in prison that must be imposed for the offenses or circumstances 8439
set forth in divisions (F)(1) to (8) or (F)(12) to (18) of 8440

section 2929.13 and division (B) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 or 2929.142 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OVI offense pursuant to division (G) (2) of section 2929.13 and division (G) (1) (d) or (e) of section 4511.19 of the Revised Code or the term of one, two, three, four, or five years in prison that a sentencing court is required to impose pursuant to division (G) (2) of section 2929.13 of the Revised Code.

(3) The term in prison imposed pursuant to division (A) of section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F) (11) of section 2929.13 of the Revised Code or pursuant to division (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(Y) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life.

(Z) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor.

(AA) "Prison" means a residential facility used for the

confinement of convicted felony offenders that is under the 8470
control of the department of rehabilitation and correction but 8471
does not include a violation sanction center operated under 8472
authority of section 2967.141 of the Revised Code. 8473

(BB) "Prison term" includes either of the following 8474
sanctions for an offender: 8475

(1) A stated prison term; 8476

(2) A term in a prison shortened by, or with the approval 8477
of, the sentencing court pursuant to section 2929.143, 2929.20, 8478
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code. 8479

(CC) "Repeat violent offender" means a person about whom 8480
both of the following apply: 8481

(1) The person is being sentenced for committing or for 8482
complicity in committing any of the following: 8483

(a) Aggravated murder, murder, any felony of the first or 8484
second degree that is an offense of violence, or an attempt to 8485
commit any of these offenses if the attempt is a felony of the 8486
first or second degree; 8487

(b) An offense under an existing or former law of this 8488
state, another state, or the United States that is or was 8489
substantially equivalent to an offense described in division 8490
(CC) (1) (a) of this section. 8491

(2) The person previously was convicted of or pleaded 8492
guilty to an offense described in division (CC) (1) (a) or (b) of 8493
this section. 8494

(DD) "Sanction" means any penalty imposed upon an offender 8495
who is convicted of or pleads guilty to an offense, as 8496
punishment for the offense. "Sanction" includes any sanction 8497

imposed pursuant to any provision of sections 2929.14 to 2929.18 8498
or 2929.24 to 2929.28 of the Revised Code. 8499

(EE) "Sentence" means the sanction or combination of 8500
sanctions imposed by the sentencing court on an offender who is 8501
convicted of or pleads guilty to an offense. 8502

(FF) "Stated prison term" means the prison term, mandatory 8503
prison term, or combination of all prison terms and mandatory 8504
prison terms imposed by the sentencing court pursuant to section 8505
2929.14, 2929.142, or 2971.03 of the Revised Code or under 8506
section 2919.25 of the Revised Code. "Stated prison term" 8507
includes any credit received by the offender for time spent in 8508
jail awaiting trial, sentencing, or transfer to prison for the 8509
offense and any time spent under house arrest or house arrest 8510
with electronic monitoring imposed after earning credits 8511
pursuant to section 2967.193 of the Revised Code. If an offender 8512
is serving a prison term as a risk reduction sentence under 8513
sections 2929.143 and 5120.036 of the Revised Code, "stated 8514
prison term" includes any period of time by which the prison 8515
term imposed upon the offender is shortened by the offender's 8516
successful completion of all assessment and treatment or 8517
programming pursuant to those sections. 8518

(GG) "Victim-offender mediation" means a reconciliation or 8519
mediation program that involves an offender and the victim of 8520
the offense committed by the offender and that includes a 8521
meeting in which the offender and the victim may discuss the 8522
offense, discuss restitution, and consider other sanctions for 8523
the offense. 8524

(HH) "Fourth degree felony OVI offense" means a violation 8525
of division (A) of section 4511.19 of the Revised Code that, 8526
under division (G) of that section, is a felony of the fourth 8527

degree. 8528

(II) "Mandatory term of local incarceration" means the 8529
term of sixty or one hundred twenty days in a jail, a community- 8530
based correctional facility, a halfway house, or an alternative 8531
residential facility that a sentencing court may impose upon a 8532
person who is convicted of or pleads guilty to a fourth degree 8533
felony OVI offense pursuant to division (G) (1) of section 8534
2929.13 of the Revised Code and division (G) (1) (d) or (e) of 8535
section 4511.19 of the Revised Code. 8536

(JJ) "Designated homicide, assault, or kidnapping 8537
offense," "violent sex offense," "sexual motivation 8538
specification," "sexually violent offense," "sexually violent 8539
predator," and "sexually violent predator specification" have 8540
the same meanings as in section 2971.01 of the Revised Code. 8541

(KK) "Sexually oriented offense," "child-victim oriented 8542
offense," and "tier III sex offender/child-victim offender" have 8543
the same meanings as in section 2950.01 of the Revised Code. 8544

(LL) An offense is "committed in the vicinity of a child" 8545
if the offender commits the offense within thirty feet of or 8546
within the same residential unit as a child who is under 8547
eighteen years of age, regardless of whether the offender knows 8548
the age of the child or whether the offender knows the offense 8549
is being committed within thirty feet of or within the same 8550
residential unit as the child and regardless of whether the 8551
child actually views the commission of the offense. 8552

(MM) "Family or household member" has the same meaning as 8553
in section 2919.25 of the Revised Code. 8554

(NN) "Motor vehicle" and "manufactured home" have the same 8555
meanings as in section 4501.01 of the Revised Code. 8556

(OO) "Detention" and "detention facility" have the same 8557
meanings as in section 2921.01 of the Revised Code. 8558

(PP) "Third degree felony OVI offense" means a violation 8559
of division (A) of section 4511.19 of the Revised Code that, 8560
under division (G) of that section, is a felony of the third 8561
degree. 8562

(QQ) "Random drug testing" has the same meaning as in 8563
section 5120.63 of the Revised Code. 8564

(RR) "Felony sex offense" has the same meaning as in 8565
section 2967.28 of the Revised Code. 8566

(SS) "Body armor" has the same meaning as in section 8567
2941.1411 of the Revised Code. 8568

(TT) "Electronic monitoring" means monitoring through the 8569
use of an electronic monitoring device. 8570

(UU) "Electronic monitoring device" means any of the 8571
following: 8572

(1) Any device that can be operated by electrical or 8573
battery power and that conforms with all of the following: 8574

(a) The device has a transmitter that can be attached to a 8575
person, that will transmit a specified signal to a receiver of 8576
the type described in division (UU) (1) (b) of this section if the 8577
transmitter is removed from the person, turned off, or altered 8578
in any manner without prior court approval in relation to 8579
electronic monitoring or without prior approval of the 8580
department of rehabilitation and correction in relation to the 8581
use of an electronic monitoring device for an inmate on 8582
transitional control or otherwise is tampered with, that can 8583
transmit continuously and periodically a signal to that receiver 8584

when the person is within a specified distance from the 8585
receiver, and that can transmit an appropriate signal to that 8586
receiver if the person to whom it is attached travels a 8587
specified distance from that receiver. 8588

(b) The device has a receiver that can receive 8589
continuously the signals transmitted by a transmitter of the 8590
type described in division (UU) (1) (a) of this section, can 8591
transmit continuously those signals by a wireless or landline 8592
telephone connection to a central monitoring computer of the 8593
type described in division (UU) (1) (c) of this section, and can 8594
transmit continuously an appropriate signal to that central 8595
monitoring computer if the device has been turned off or altered 8596
without prior court approval or otherwise tampered with. The 8597
device is designed specifically for use in electronic 8598
monitoring, is not a converted wireless phone or another 8599
tracking device that is clearly not designed for electronic 8600
monitoring, and provides a means of text-based or voice 8601
communication with the person. 8602

(c) The device has a central monitoring computer that can 8603
receive continuously the signals transmitted by a wireless or 8604
landline telephone connection by a receiver of the type 8605
described in division (UU) (1) (b) of this section and can monitor 8606
continuously the person to whom an electronic monitoring device 8607
of the type described in division (UU) (1) (a) of this section is 8608
attached. 8609

(2) Any device that is not a device of the type described 8610
in division (UU) (1) of this section and that conforms with all 8611
of the following: 8612

(a) The device includes a transmitter and receiver that 8613
can monitor and determine the location of a subject person at 8614

any time, or at a designated point in time, through the use of a 8615
central monitoring computer or through other electronic means. 8616

(b) The device includes a transmitter and receiver that 8617
can determine at any time, or at a designated point in time, 8618
through the use of a central monitoring computer or other 8619
electronic means the fact that the transmitter is turned off or 8620
altered in any manner without prior approval of the court in 8621
relation to the electronic monitoring or without prior approval 8622
of the department of rehabilitation and correction in relation 8623
to the use of an electronic monitoring device for an inmate on 8624
transitional control or otherwise is tampered with. 8625

(3) Any type of technology that can adequately track or 8626
determine the location of a subject person at any time and that 8627
is approved by the director of rehabilitation and correction, 8628
including, but not limited to, any satellite technology, voice 8629
tracking system, or retinal scanning system that is so approved. 8630

(VV) "Non-economic loss" means nonpecuniary harm suffered 8631
by a victim of an offense as a result of or related to the 8632
commission of the offense, including, but not limited to, pain 8633
and suffering; loss of society, consortium, companionship, care, 8634
assistance, attention, protection, advice, guidance, counsel, 8635
instruction, training, or education; mental anguish; and any 8636
other intangible loss. 8637

(WW) "Prosecutor" has the same meaning as in section 8638
2935.01 of the Revised Code. 8639

(XX) "Continuous alcohol monitoring" means the ability to 8640
automatically test and periodically transmit alcohol consumption 8641
levels and tamper attempts at least every hour, regardless of 8642
the location of the person who is being monitored. 8643

(YY) A person is "adjudicated a sexually violent predator" 8644
if the person is convicted of or pleads guilty to a violent sex 8645
offense and also is convicted of or pleads guilty to a sexually 8646
violent predator specification that was included in the 8647
indictment, count in the indictment, or information charging 8648
that violent sex offense or if the person is convicted of or 8649
pleads guilty to a designated homicide, assault, or kidnapping 8650
offense and also is convicted of or pleads guilty to both a 8651
sexual motivation specification and a sexually violent predator 8652
specification that were included in the indictment, count in the 8653
indictment, or information charging that designated homicide, 8654
assault, or kidnapping offense. 8655

(ZZ) An offense is "committed in proximity to a school" if 8656
the offender commits the offense in a school safety zone or 8657
within five hundred feet of any school building or the 8658
boundaries of any school premises, regardless of whether the 8659
offender knows the offense is being committed in a school safety 8660
zone or within five hundred feet of any school building or the 8661
boundaries of any school premises. 8662

(AAA) "Human trafficking" means a scheme or plan to which 8663
all of the following apply: 8664

(1) Its object is one or more of the following: 8665

(a) To subject a victim or victims to involuntary 8666
servitude, as defined in section 2905.31 of the Revised Code or 8667
to compel a victim or victims to engage in sexual activity for 8668
hire, to engage in a performance that is obscene, sexually 8669
oriented, or nudity oriented, or to be a model or participant in 8670
the production of material that is obscene, sexually oriented, 8671
or nudity oriented; 8672

(b) To facilitate, encourage, or recruit a victim who is 8673
less than sixteen years of age or is a ~~developmentally disabled~~ 8674
person with a developmental disability, or victims who are less 8675
than sixteen years of age or are ~~developmentally disabled~~ 8676
persons with developmental disabilities, for any purpose listed 8677
in divisions (A) (2) (a) to (c) of section 2905.32 of the Revised 8678
Code; 8679

(c) To facilitate, encourage, or recruit a victim who is 8680
sixteen or seventeen years of age, or victims who are sixteen or 8681
seventeen years of age, for any purpose listed in divisions (A) 8682
(2) (a) to (c) of section 2905.32 of the Revised Code, if the 8683
circumstances described in division (A) (5), (6), (7), (8), (9), 8684
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 8685
apply with respect to the person engaging in the conduct and the 8686
victim or victims. 8687

(2) It involves at least two felony offenses, whether or 8688
not there has been a prior conviction for any of the felony 8689
offenses, to which all of the following apply: 8690

(a) Each of the felony offenses is a violation of section 8691
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, 8692
division (A) (1) or (2) of section 2907.323, or division (B) (1), 8693
(2), (3), (4), or (5) of section 2919.22 of the Revised Code or 8694
is a violation of a law of any state other than this state that 8695
is substantially similar to any of the sections or divisions of 8696
the Revised Code identified in this division. 8697

(b) At least one of the felony offenses was committed in 8698
this state. 8699

(c) The felony offenses are related to the same scheme or 8700
plan and are not isolated instances. 8701

(BBB) "Material," "nudity," "obscene," "performance," and 8702
"sexual activity" have the same meanings as in section 2907.01 8703
of the Revised Code. 8704

(CCC) "Material that is obscene, sexually oriented, or 8705
nudity oriented" means any material that is obscene, that shows 8706
a person participating or engaging in sexual activity, 8707
masturbation, or bestiality, or that shows a person in a state 8708
of nudity. 8709

(DDD) "Performance that is obscene, sexually oriented, or 8710
nudity oriented" means any performance that is obscene, that 8711
shows a person participating or engaging in sexual activity, 8712
masturbation, or bestiality, or that shows a person in a state 8713
of nudity. 8714

Sec. 2929.04. (A) Imposition of the death penalty for 8715
aggravated murder is precluded unless one or more of the 8716
following is specified in the indictment or count in the 8717
indictment pursuant to section 2941.14 of the Revised Code and 8718
proved beyond a reasonable doubt: 8719

(1) The offense was the assassination of the president of 8720
the United States or a person in line of succession to the 8721
presidency, the governor or lieutenant governor of this state, 8722
the president-elect or vice president-elect of the United 8723
States, the governor-elect or lieutenant governor-elect of this 8724
state, or a candidate for any of the offices described in this 8725
division. For purposes of this division, a person is a candidate 8726
if the person has been nominated for election according to law, 8727
if the person has filed a petition or petitions according to law 8728
to have the person's name placed on the ballot in a primary or 8729
general election, or if the person campaigns as a write-in 8730
candidate in a primary or general election. 8731

- (2) The offense was committed for hire. 8732
- (3) The offense was committed for the purpose of escaping 8733
detection, apprehension, trial, or punishment for another 8734
offense committed by the offender. 8735
- (4) The offense was committed while the offender was under 8736
detention or while the offender was at large after having broken 8737
detention. As used in division (A) (4) of this section, 8738
"detention" has the same meaning as in section 2921.01 of the 8739
Revised Code, except that detention does not include 8740
hospitalization, institutionalization, or confinement in a 8741
mental health facility or ~~mental retardation~~ an intellectually 8742
disabled and developmentally disabled facility unless at the 8743
time of the commission of the offense either of the following 8744
circumstances apply: 8745
- (a) The offender was in the facility as a result of being 8746
charged with a violation of a section of the Revised Code. 8747
- (b) The offender was under detention as a result of being 8748
convicted of or pleading guilty to a violation of a section of 8749
the Revised Code. 8750
- (5) Prior to the offense at bar, the offender was 8751
convicted of an offense an essential element of which was the 8752
purposeful killing of or attempt to kill another, or the offense 8753
at bar was part of a course of conduct involving the purposeful 8754
killing of or attempt to kill two or more persons by the 8755
offender. 8756
- (6) The victim of the offense was a law enforcement 8757
officer, as defined in section 2911.01 of the Revised Code, whom 8758
the offender had reasonable cause to know or knew to be a law 8759
enforcement officer as so defined, and either the victim, at the 8760

time of the commission of the offense, was engaged in the 8761
victim's duties, or it was the offender's specific purpose to 8762
kill a law enforcement officer as so defined. 8763

(7) The offense was committed while the offender was 8764
committing, attempting to commit, or fleeing immediately after 8765
committing or attempting to commit kidnapping, rape, aggravated 8766
arson, aggravated robbery, or aggravated burglary, and either 8767
the offender was the principal offender in the commission of the 8768
aggravated murder or, if not the principal offender, committed 8769
the aggravated murder with prior calculation and design. 8770

(8) The victim of the aggravated murder was a witness to 8771
an offense who was purposely killed to prevent the victim's 8772
testimony in any criminal proceeding and the aggravated murder 8773
was not committed during the commission, attempted commission, 8774
or flight immediately after the commission or attempted 8775
commission of the offense to which the victim was a witness, or 8776
the victim of the aggravated murder was a witness to an offense 8777
and was purposely killed in retaliation for the victim's 8778
testimony in any criminal proceeding. 8779

(9) The offender, in the commission of the offense, 8780
purposefully caused the death of another who was under thirteen 8781
years of age at the time of the commission of the offense, and 8782
either the offender was the principal offender in the commission 8783
of the offense or, if not the principal offender, committed the 8784
offense with prior calculation and design. 8785

(10) The offense was committed while the offender was 8786
committing, attempting to commit, or fleeing immediately after 8787
committing or attempting to commit terrorism. 8788

(B) If one or more of the aggravating circumstances listed 8789

in division (A) of this section is specified in the indictment 8790
or count in the indictment and proved beyond a reasonable doubt, 8791
and if the offender did not raise the matter of age pursuant to 8792
section 2929.023 of the Revised Code or if the offender, after 8793
raising the matter of age, was found at trial to have been 8794
eighteen years of age or older at the time of the commission of 8795
the offense, the court, trial jury, or panel of three judges 8796
shall consider, and weigh against the aggravating circumstances 8797
proved beyond a reasonable doubt, the nature and circumstances 8798
of the offense, the history, character, and background of the 8799
offender, and all of the following factors: 8800

(1) Whether the victim of the offense induced or 8801
facilitated it; 8802

(2) Whether it is unlikely that the offense would have 8803
been committed, but for the fact that the offender was under 8804
duress, coercion, or strong provocation; 8805

(3) Whether, at the time of committing the offense, the 8806
offender, because of a mental disease or defect, lacked 8807
substantial capacity to appreciate the criminality of the 8808
offender's conduct or to conform the offender's conduct to the 8809
requirements of the law; 8810

(4) The youth of the offender; 8811

(5) The offender's lack of a significant history of prior 8812
criminal convictions and delinquency adjudications; 8813

(6) If the offender was a participant in the offense but 8814
not the principal offender, the degree of the offender's 8815
participation in the offense and the degree of the offender's 8816
participation in the acts that led to the death of the victim; 8817

(7) Any other factors that are relevant to the issue of 8818

whether the offender should be sentenced to death. 8819

(C) The defendant shall be given great latitude in the 8820
presentation of evidence of the factors listed in division (B) 8821
of this section and of any other factors in mitigation of the 8822
imposition of the sentence of death. 8823

The existence of any of the mitigating factors listed in 8824
division (B) of this section does not preclude the imposition of 8825
a sentence of death on the offender but shall be weighed 8826
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 8827
Revised Code by the trial court, trial jury, or the panel of 8828
three judges against the aggravating circumstances the offender 8829
was found guilty of committing. 8830

Sec. 2929.06. (A) If a sentence of death imposed upon an 8831
offender is set aside, nullified, or vacated because the court 8832
of appeals, in a case in which a sentence of death was imposed 8833
for an offense committed before January 1, 1995, or the supreme 8834
court, in cases in which the supreme court reviews the sentence 8835
upon appeal, could not affirm the sentence of death under the 8836
standards imposed by section 2929.05 of the Revised Code, is set 8837
aside, nullified, or vacated for the sole reason that the 8838
statutory procedure for imposing the sentence of death that is 8839
set forth in sections 2929.03 and 2929.04 of the Revised Code is 8840
unconstitutional, is set aside, nullified, or vacated pursuant 8841
to division (C) of section 2929.05 of the Revised Code, or is 8842
set aside, nullified, or vacated because a court has determined 8843
that the offender is ~~mentally retarded~~ intellectually disabled 8844
under standards set forth in decisions of the supreme court of 8845
this state or the United States supreme court, the trial court 8846
that sentenced the offender shall conduct a hearing to 8847
resentence the offender. At the resentencing hearing, the court 8848

shall impose upon the offender a sentence of life imprisonment 8849
or an indefinite term consisting of a minimum term of thirty 8850
years and a maximum term of life imprisonment that is determined 8851
as specified in this division. If division (D) of section 8852
2929.03 of the Revised Code, at the time the offender committed 8853
the aggravated murder for which the sentence of death was 8854
imposed, required the imposition when a sentence of death was 8855
not imposed of a sentence of life imprisonment without parole or 8856
a sentence of an indefinite term consisting of a minimum term of 8857
thirty years and a maximum term of life imprisonment to be 8858
imposed pursuant to division (A) or (B) (3) of section 2971.03 of 8859
the Revised Code and served pursuant to that section, the court 8860
shall impose the sentence so required. In all other cases, the 8861
sentences of life imprisonment that are available at the 8862
hearing, and from which the court shall impose sentence, shall 8863
be the same sentences of life imprisonment that were available 8864
under division (D) of section 2929.03 or under section 2909.24 8865
of the Revised Code at the time the offender committed the 8866
offense for which the sentence of death was imposed. Nothing in 8867
this division regarding the resentencing of an offender shall 8868
affect the operation of section 2971.03 of the Revised Code. 8869

(B) Whenever any court of this state or any federal court 8870
sets aside, nullifies, or vacates a sentence of death imposed 8871
upon an offender because of error that occurred in the 8872
sentencing phase of the trial and if division (A) of this 8873
section does not apply, the trial court that sentenced the 8874
offender shall conduct a new hearing to resentence the offender. 8875
If the offender was tried by a jury, the trial court shall 8876
impanel a new jury for the hearing. If the offender was tried by 8877
a panel of three judges, that panel or, if necessary, a new 8878
panel of three judges shall conduct the hearing. At the hearing, 8879

the court or panel shall follow the procedure set forth in 8880
division (D) of section 2929.03 of the Revised Code in 8881
determining whether to impose upon the offender a sentence of 8882
death, a sentence of life imprisonment, or an indefinite term 8883
consisting of a minimum term of thirty years and a maximum term 8884
of life imprisonment. If, pursuant to that procedure, the court 8885
or panel determines that it will impose a sentence other than a 8886
sentence of death, the court or panel shall impose upon the 8887
offender one of the sentences of life imprisonment that could 8888
have been imposed at the time the offender committed the offense 8889
for which the sentence of death was imposed, determined as 8890
specified in this division, or an indefinite term consisting of 8891
a minimum term of thirty years and a maximum term of life 8892
imprisonment that is determined as specified in this division. 8893
If division (D) of section 2929.03 of the Revised Code, at the 8894
time the offender committed the aggravated murder for which the 8895
sentence of death was imposed, required the imposition when a 8896
sentence of death was not imposed of a sentence of life 8897
imprisonment without parole or a sentence of an indefinite term 8898
consisting of a minimum term of thirty years and a maximum term 8899
of life imprisonment to be imposed pursuant to division (A) or 8900
(B) (3) of section 2971.03 of the Revised Code and served 8901
pursuant to that section, the court or panel shall impose the 8902
sentence so required. In all other cases, the sentences of life 8903
imprisonment that are available at the hearing, and from which 8904
the court or panel shall impose sentence, shall be the same 8905
sentences of life imprisonment that were available under 8906
division (D) of section 2929.03 or under section 2909.24 of the 8907
Revised Code at the time the offender committed the offense for 8908
which the sentence of death was imposed. 8909

(C) If a sentence of life imprisonment without parole 8910

imposed upon an offender pursuant to section 2929.021 or 2929.03 8911
of the Revised Code is set aside, nullified, or vacated for the 8912
sole reason that the statutory procedure for imposing the 8913
sentence of life imprisonment without parole that is set forth 8914
in sections 2929.03 and 2929.04 of the Revised Code is 8915
unconstitutional, the trial court that sentenced the offender 8916
shall conduct a hearing to resentence the offender to life 8917
imprisonment with parole eligibility after serving twenty-five 8918
full years of imprisonment or to life imprisonment with parole 8919
eligibility after serving thirty full years of imprisonment. 8920

(D) Nothing in this section limits or restricts the rights 8921
of the state to appeal any order setting aside, nullifying, or 8922
vacating a conviction or sentence of death, when an appeal of 8923
that nature otherwise would be available. 8924

(E) This section, as amended by H.B. 184 of the 125th 8925
general assembly, shall apply to all offenders who have been 8926
sentenced to death for an aggravated murder that was committed 8927
on or after October 19, 1981, or for terrorism that was 8928
committed on or after May 15, 2002. This section, as amended by 8929
H.B. 184 of the 125th general assembly, shall apply equally to 8930
all such offenders sentenced to death prior to, on, or after 8931
March 23, 2005, including offenders who, on March 23, 2005, are 8932
challenging their sentence of death and offenders whose sentence 8933
of death has been set aside, nullified, or vacated by any court 8934
of this state or any federal court but who, as of March 23, 8935
2005, have not yet been resentenced. 8936

Sec. 2930.061. (A) If a person is charged in a complaint, 8937
indictment, or information with any crime or specified 8938
delinquent act or with any other violation of law, and if the 8939
case involves a victim that the prosecutor in the case knows is 8940

a ~~mentally retarded~~ person with an intellectual disability or a 8941
~~developmentally disabled~~ person with a developmental disability, 8942
in addition to any other notices required under this chapter or 8943
under any other provision of law, the prosecutor in the case 8944
shall send written notice of the charges to the department of 8945
developmental disabilities. The written notice shall 8946
specifically identify the person so charged. 8947

(B) As used in this section, "~~mentally retarded~~ person 8948
with an intellectual disability" and "~~developmentally disabled~~ 8949
person with a developmental disability" have the same meanings 8950
as in section 5123.01 of the Revised Code. 8951

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 8952
in a case who has requested to receive notice under this section 8953
shall be given notice of the incarceration of the defendant. If 8954
an alleged juvenile offender is committed to the temporary 8955
custody of a school, camp, institution, or other facility 8956
operated for the care of delinquent children or to the legal 8957
custody of the department of youth services, a victim in a case 8958
who has requested to receive notice under this section shall be 8959
given notice of the commitment. Promptly after sentence is 8960
imposed upon the defendant or the commitment of the alleged 8961
juvenile offender is ordered, the prosecutor in the case shall 8962
notify the victim of the date on which the defendant will be 8963
released from confinement or the prosecutor's reasonable 8964
estimate of that date or the date on which the alleged juvenile 8965
offender will have served the minimum period of commitment or 8966
the prosecutor's reasonable estimate of that date. The 8967
prosecutor also shall notify the victim of the name of the 8968
custodial agency of the defendant or alleged juvenile offender 8969
and tell the victim how to contact that custodial agency. If the 8970
custodial agency is the department of rehabilitation and 8971

correction, the prosecutor shall notify the victim of the 8972
services offered by the office of victims' services pursuant to 8973
section 5120.60 of the Revised Code. If the custodial agency is 8974
the department of youth services, the prosecutor shall notify 8975
the victim of the services provided by the office of victims' 8976
services within the release authority of the department pursuant 8977
to section 5139.55 of the Revised Code and the victim's right 8978
pursuant to section 5139.56 of the Revised Code to submit a 8979
written request to the release authority to be notified of 8980
actions the release authority takes with respect to the alleged 8981
juvenile offender. The victim shall keep the custodial agency 8982
informed of the victim's current address and telephone number. 8983

(B) (1) Upon the victim's request or in accordance with 8984
division (D) of this section, the prosecutor promptly shall 8985
notify the victim of any hearing for judicial release of the 8986
defendant pursuant to section 2929.20 of the Revised Code, of 8987
any hearing for release of the defendant pursuant to section 8988
2967.19 of the Revised Code, or of any hearing for judicial 8989
release or early release of the alleged juvenile offender 8990
pursuant to section 2151.38 of the Revised Code and of the 8991
victim's right to make a statement under those sections. The 8992
court shall notify the victim of its ruling in each of those 8993
hearings and on each of those applications. 8994

(2) If an offender is sentenced to a prison term pursuant 8995
to division (A) (3) or (B) of section 2971.03 of the Revised 8996
Code, upon the request of the victim of the crime or in 8997
accordance with division (D) of this section, the prosecutor 8998
promptly shall notify the victim of any hearing to be conducted 8999
pursuant to section 2971.05 of the Revised Code to determine 9000
whether to modify the requirement that the offender serve the 9001
entire prison term in a state correctional facility in 9002

accordance with division (C) of that section, whether to 9003
continue, revise, or revoke any existing modification of that 9004
requirement, or whether to terminate the prison term in 9005
accordance with division (D) of that section. The court shall 9006
notify the victim of any order issued at the conclusion of the 9007
hearing. 9008

(C) Upon the victim's request made at any time before the 9009
particular notice would be due or in accordance with division 9010
(D) of this section, the custodial agency of a defendant or 9011
alleged juvenile offender shall give the victim any of the 9012
following notices that is applicable: 9013

(1) At least sixty days before the adult parole authority 9014
recommends a pardon or commutation of sentence for the defendant 9015
or at least sixty days prior to a hearing before the adult 9016
parole authority regarding a grant of parole to the defendant, 9017
notice of the victim's right to submit a statement regarding the 9018
impact of the defendant's release in accordance with section 9019
2967.12 of the Revised Code and, if applicable, of the victim's 9020
right to appear at a full board hearing of the parole board to 9021
give testimony as authorized by section 5149.101 of the Revised 9022
Code; 9023

(2) At least sixty days before the defendant is 9024
transferred to transitional control under section 2967.26 of the 9025
Revised Code, notice of the pendency of the transfer and of the 9026
victim's right under that section to submit a statement 9027
regarding the impact of the transfer; 9028

(3) At least sixty days before the release authority of 9029
the department of youth services holds a release review, release 9030
hearing, or discharge review for the alleged juvenile offender, 9031
notice of the pendency of the review or hearing, of the victim's 9032

right to make an oral or written statement regarding the impact 9033
of the crime upon the victim or regarding the possible release 9034
or discharge, and, if the notice pertains to a hearing, of the 9035
victim's right to attend and make statements or comments at the 9036
hearing as authorized by section 5139.56 of the Revised Code; 9037

(4) Prompt notice of the defendant's or alleged juvenile 9038
offender's escape from a facility of the custodial agency in 9039
which the defendant was incarcerated or in which the alleged 9040
juvenile offender was placed after commitment, of the 9041
defendant's or alleged juvenile offender's absence without leave 9042
from a mental health or ~~mental retardation~~ an intellectual 9043
disabilities and developmental disabilities facility or from 9044
other custody, and of the capture of the defendant or alleged 9045
juvenile offender after an escape or absence; 9046

(5) Notice of the defendant's or alleged juvenile 9047
offender's death while in confinement or custody; 9048

(6) Notice of the filing of a petition by the director of 9049
rehabilitation and correction pursuant to section 2967.19 of the 9050
Revised Code requesting the early release under that section of 9051
the defendant; 9052

(7) Notice of the defendant's or alleged juvenile 9053
offender's release from confinement or custody and the terms and 9054
conditions of the release. 9055

(D) (1) If a defendant is incarcerated for the commission 9056
of aggravated murder, murder, or an offense of violence that is 9057
a felony of the first, second, or third degree or is under a 9058
sentence of life imprisonment or if an alleged juvenile offender 9059
has been charged with the commission of an act that would be 9060
aggravated murder, murder, or an offense of violence that is a 9061

felony of the first, second, or third degree or be subject to a 9062
sentence of life imprisonment if committed by an adult, except 9063
as otherwise provided in this division, the notices described in 9064
divisions (B) and (C) of this section shall be given regardless 9065
of whether the victim has requested the notification. The 9066
notices described in divisions (B) and (C) of this section shall 9067
not be given under this division to a victim if the victim has 9068
requested pursuant to division (B)(2) of section 2930.03 of the 9069
Revised Code that the victim not be provided the notice. 9070
Regardless of whether the victim has requested that the notices 9071
described in division (C) of this section be provided or not be 9072
provided, the custodial agency shall give notice similar to 9073
those notices to the prosecutor in the case, to the sentencing 9074
court, to the law enforcement agency that arrested the defendant 9075
or alleged juvenile offender if any officer of that agency was a 9076
victim of the offense, and to any member of the victim's 9077
immediate family who requests notification. If the notice given 9078
under this division to the victim is based on an offense 9079
committed prior to ~~the effective date of this amendment~~ March 9080
22, 2013, and if the prosecutor or custodial agency has not 9081
previously successfully provided any notice to the victim under 9082
this division or division (B) or (C) of this section with 9083
respect to that offense and the offender who committed it, the 9084
notice also shall inform the victim that the victim may request 9085
that the victim not be provided any further notices with respect 9086
to that offense and the offender who committed it and shall 9087
describe the procedure for making that request. If the notice 9088
given under this division to the victim pertains to a hearing 9089
regarding a grant of a parole to the defendant, the notice also 9090
shall inform the victim that the victim, a member of the 9091
victim's immediate family, or the victim's representative may 9092
request a victim conference, as described in division (E) of 9093

this section, and shall provide an explanation of a victim 9094
conference. 9095

The prosecutor or custodial agency may give the notices to 9096
which this division applies by any reasonable means, including 9097
regular mail, telephone, and electronic mail. If the prosecutor 9098
or custodial agency attempts to provide notice to a victim under 9099
this division but the attempt is unsuccessful because the 9100
prosecutor or custodial agency is unable to locate the victim, 9101
is unable to provide the notice by its chosen method because it 9102
cannot determine the mailing address, telephone number, or 9103
electronic mail address at which to provide the notice, or, if 9104
the notice is sent by mail, the notice is returned, the 9105
prosecutor or custodial agency shall make another attempt to 9106
provide the notice to the victim. If the second attempt is 9107
unsuccessful, the prosecutor or custodial agency shall make at 9108
least one more attempt to provide the notice. If the notice is 9109
based on an offense committed prior to ~~the effective date of~~ 9110
~~this amendment~~ March 22, 2013, in each attempt to provide the 9111
notice to the victim, the notice shall include the opt-out 9112
information described in the preceding paragraph. The prosecutor 9113
or custodial agency, in accordance with division (D)(2) of this 9114
section, shall keep a record of all attempts to provide the 9115
notice, and of all notices provided, under this division. 9116

Division (D)(1) of this section, and the notice-related 9117
provisions of divisions (E)(2) and (K) of section 2929.20, 9118
division (H) of section 2967.12, division (E)(1)(b) of section 9119
2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) 9120
of section 2967.28, and division (A)(2) of section 5149.101 of 9121
the Revised Code enacted in the act in which division (D)(1) of 9122
this section was enacted, shall be known as "Roberta's Law." 9123

(2) Each prosecutor and custodial agency that attempts to give any notice to which division (D)(1) of this section applies shall keep a record of all attempts to give the notice. The record shall indicate the person who was to be the recipient of the notice, the date on which the attempt was made, the manner in which the attempt was made, and the person who made the attempt. If the attempt is successful and the notice is given, the record shall indicate that fact. The record shall be kept in a manner that allows public inspection of attempts and notices given to persons other than victims without revealing the names, addresses, or other identifying information relating to victims. The record of attempts and notices given to victims is not a public record, but the prosecutor or custodial agency shall provide upon request a copy of that record to a prosecuting attorney, judge, law enforcement agency, or member of the general assembly. The record of attempts and notices given to persons other than victims is a public record. A record kept under this division may be indexed by offender name, or in any other manner determined by the prosecutor or the custodial agency. Each prosecutor or custodial agency that is required to keep a record under this division shall determine the procedures for keeping the record and the manner in which it is to be kept, subject to the requirements of this division.

(E) The adult parole authority shall adopt rules under Chapter 119. of the Revised Code providing for a victim conference, upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment. The rules shall

provide for, but not be limited to, all of the following: 9155

(1) Subject to division (E) (3) of this section, attendance 9156
by the victim, members of the victim's immediate family, the 9157
victim's representative, and, if practicable, other individuals; 9158

(2) Allotment of up to one hour for the conference; 9159

(3) A specification of the number of persons specified in 9160
division (E) (1) of this section who may be present at any single 9161
victim conference, if limited by the department pursuant to 9162
division (F) of this section. 9163

(F) The department may limit the number of persons 9164
specified in division (E) (1) of this section who may be present 9165
at any single victim conference, provided that the department 9166
shall not limit the number of persons who may be present at any 9167
single conference to fewer than three. If the department limits 9168
the number of persons who may be present at any single victim 9169
conference, the department shall permit and schedule, upon 9170
request of the victim, a member of the victim's immediate 9171
family, or the victim's representative, multiple victim 9172
conferences for the persons specified in division (E) (1) of this 9173
section. 9174

(G) As used in this section, "victim's immediate family" 9175
has the same meaning as in section 2967.12 of the Revised Code. 9176

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 9177
of the Revised Code: 9178

(1) "Prosecutor" means a prosecuting attorney or a city 9179
director of law, village solicitor, or similar chief legal 9180
officer of a municipal corporation who has authority to 9181
prosecute a criminal case that is before the court or the 9182
criminal case in which a defendant in a criminal case has been 9183

found incompetent to stand trial or not guilty by reason of 9184
insanity. 9185

(2) "Examiner" means either of the following: 9186

(a) A psychiatrist or a licensed clinical psychologist who 9187
satisfies the criteria of division (I) of section 5122.01 of the 9188
Revised Code or is employed by a certified forensic center 9189
designated by the department of mental health and addiction 9190
services to conduct examinations or evaluations. 9191

(b) For purposes of a separate ~~mental retardation~~ 9192
intellectual disability evaluation that is ordered by a court 9193
pursuant to division (H) of section 2945.371 of the Revised 9194
Code, a psychologist designated by the director of developmental 9195
disabilities pursuant to that section to conduct that separate 9196
~~mental retardation~~ intellectual disability evaluation. 9197

(3) "Nonsecured status" means any unsupervised, off- 9198
grounds movement or trial visit from a hospital or institution, 9199
or any conditional release, that is granted to a person who is 9200
found incompetent to stand trial and is committed pursuant to 9201
section 2945.39 of the Revised Code or to a person who is found 9202
not guilty by reason of insanity and is committed pursuant to 9203
section 2945.40 of the Revised Code. 9204

(4) "Unsupervised, off-grounds movement" includes only 9205
off-grounds privileges that are unsupervised and that have an 9206
expectation of return to the hospital or institution on a daily 9207
basis. 9208

(5) "Trial visit" means a patient privilege of a longer 9209
stated duration of unsupervised community contact with an 9210
expectation of return to the hospital or institution at 9211
designated times. 9212

(6) "Conditional release" means a commitment status under 9213
which the trial court at any time may revoke a person's 9214
conditional release and order the rehospitization or 9215
reinstitutionalization of the person as described in division 9216
(A) of section 2945.402 of the Revised Code and pursuant to 9217
which a person who is found incompetent to stand trial or a 9218
person who is found not guilty by reason of insanity lives and 9219
receives treatment in the community for a period of time that 9220
does not exceed the maximum prison term or term of imprisonment 9221
that the person could have received for the offense in question 9222
had the person been convicted of the offense instead of being 9223
found incompetent to stand trial on the charge of the offense or 9224
being found not guilty by reason of insanity relative to the 9225
offense. 9226

(7) "Licensed clinical psychologist," "mentally ill person 9227
subject to court order," and "psychiatrist" have the same 9228
meanings as in section 5122.01 of the Revised Code. 9229

(8) "~~Mentally retarded person~~ Person with an intellectual 9230
disability subject to institutionalization by court order" has 9231
the same meaning as in section 5123.01 of the Revised Code. 9232

(B) In a criminal action in a court of common pleas, a 9233
county court, or a municipal court, the court, prosecutor, or 9234
defense may raise the issue of the defendant's competence to 9235
stand trial. If the issue is raised before the trial has 9236
commenced, the court shall hold a hearing on the issue as 9237
provided in this section. If the issue is raised after the trial 9238
has commenced, the court shall hold a hearing on the issue only 9239
for good cause shown or on the court's own motion. 9240

(C) The court shall conduct the hearing required or 9241
authorized under division (B) of this section within thirty days 9242

after the issue is raised, unless the defendant has been 9243
referred for evaluation in which case the court shall conduct 9244
the hearing within ten days after the filing of the report of 9245
the evaluation or, in the case of a defendant who is ordered by 9246
the court pursuant to division (H) of section 2945.371 of the 9247
Revised Code to undergo a separate ~~mental retardation~~ 9248
intellectual disability evaluation conducted by a psychologist 9249
designated by the director of developmental disabilities, within 9250
ten days after the filing of the report of the separate ~~mental-~~ 9251
~~retardation~~ intellectual disability evaluation under that 9252
division. A hearing may be continued for good cause. 9253

(D) The defendant shall be represented by counsel at the 9254
hearing conducted under division (C) of this section. If the 9255
defendant is unable to obtain counsel, the court shall appoint 9256
counsel under Chapter 120. of the Revised Code or under the 9257
authority recognized in division (C) of section 120.06, division 9258
(E) of section 120.16, division (E) of section 120.26, or 9259
section 2941.51 of the Revised Code before proceeding with the 9260
hearing. 9261

(E) The prosecutor and defense counsel may submit evidence 9262
on the issue of the defendant's competence to stand trial. A 9263
written report of the evaluation of the defendant may be 9264
admitted into evidence at the hearing by stipulation, but, if 9265
either the prosecution or defense objects to its admission, the 9266
report may be admitted under sections 2317.36 to 2317.38 of the 9267
Revised Code or any other applicable statute or rule. 9268

(F) The court shall not find a defendant incompetent to 9269
stand trial solely because the defendant is receiving or has 9270
received treatment as a voluntary or involuntary mentally ill 9271
patient under Chapter 5122. or a voluntary or involuntary 9272

~~mentally retarded~~ intellectually disabled resident under Chapter 9273
5123. of the Revised Code or because the defendant is receiving 9274
or has received psychotropic drugs or other medication, even if 9275
the defendant might become incompetent to stand trial without 9276
the drugs or medication. 9277

(G) A defendant is presumed to be competent to stand 9278
trial. If, after a hearing, the court finds by a preponderance 9279
of the evidence that, because of the defendant's present mental 9280
condition, the defendant is incapable of understanding the 9281
nature and objective of the proceedings against the defendant or 9282
of assisting in the defendant's defense, the court shall find 9283
the defendant incompetent to stand trial and shall enter an 9284
order authorized by section 2945.38 of the Revised Code. 9285

(H) Municipal courts shall follow the procedures set forth 9286
in sections 2945.37 to 2945.402 of the Revised Code. Except as 9287
provided in section 2945.371 of the Revised Code, a municipal 9288
court shall not order an evaluation of the defendant's 9289
competence to stand trial or the defendant's mental condition at 9290
the time of the commission of the offense to be conducted at any 9291
hospital operated by the department of mental health and 9292
addiction services. Those evaluations shall be performed through 9293
community resources including, but not limited to, certified 9294
forensic centers, court probation departments, and community 9295
mental health services providers. All expenses of the 9296
evaluations shall be borne by the legislative authority of the 9297
municipal court, as defined in section 1901.03 of the Revised 9298
Code, and shall be taxed as costs in the case. If a defendant is 9299
found incompetent to stand trial or not guilty by reason of 9300
insanity, a municipal court may commit the defendant as provided 9301
in sections 2945.38 to 2945.402 of the Revised Code. 9302

Sec. 2945.371. (A) If the issue of a defendant's 9303
competence to stand trial is raised or if a defendant enters a 9304
plea of not guilty by reason of insanity, the court may order 9305
one or more evaluations of the defendant's present mental 9306
condition or, in the case of a plea of not guilty by reason of 9307
insanity, of the defendant's mental condition at the time of the 9308
offense charged. An examiner shall conduct the evaluation. 9309

(B) If the court orders more than one evaluation under 9310
division (A) of this section, the prosecutor and the defendant 9311
may recommend to the court an examiner whom each prefers to 9312
perform one of the evaluations. If a defendant enters a plea of 9313
not guilty by reason of insanity and if the court does not 9314
designate an examiner recommended by the defendant, the court 9315
shall inform the defendant that the defendant may have 9316
independent expert evaluation and that, if the defendant is 9317
unable to obtain independent expert evaluation, it will be 9318
obtained for the defendant at public expense if the defendant is 9319
indigent. 9320

(C) If the court orders an evaluation under division (A) 9321
of this section, the defendant shall be available at the times 9322
and places established by the examiners who are to conduct the 9323
evaluation. The court may order a defendant who has been 9324
released on bail or recognizance to submit to an evaluation 9325
under this section. If a defendant who has been released on bail 9326
or recognizance refuses to submit to a complete evaluation, the 9327
court may amend the conditions of bail or recognizance and order 9328
the sheriff to take the defendant into custody and deliver the 9329
defendant to a center, program, or facility operated or 9330
certified by the department of mental health and addiction 9331
services or the department of developmental disabilities where 9332
the defendant may be held for evaluation for a reasonable period 9333

of time not to exceed twenty days. 9334

(D) A defendant who has not been released on bail or 9335
recognizance may be evaluated at the defendant's place of 9336
detention. Upon the request of the examiner, the court may order 9337
the sheriff to transport the defendant to a program or facility 9338
operated or certified by the department of mental health and 9339
addiction services or the department of developmental 9340
disabilities, where the defendant may be held for evaluation for 9341
a reasonable period of time not to exceed twenty days, and to 9342
return the defendant to the place of detention after the 9343
evaluation. A municipal court may make an order under this 9344
division only upon the request of a certified forensic center 9345
examiner. 9346

(E) If a court orders the evaluation to determine a 9347
defendant's mental condition at the time of the offense charged, 9348
the court shall inform the examiner of the offense with which 9349
the defendant is charged. 9350

(F) In conducting an evaluation of a defendant's mental 9351
condition at the time of the offense charged, the examiner shall 9352
consider all relevant evidence. If the offense charged involves 9353
the use of force against another person, the relevant evidence 9354
to be considered includes, but is not limited to, any evidence 9355
that the defendant suffered, at the time of the commission of 9356
the offense, from the "battered woman syndrome." 9357

(G) The examiner shall file a written report with the 9358
court within thirty days after entry of a court order for 9359
evaluation, and the court shall provide copies of the report to 9360
the prosecutor and defense counsel. The report shall include all 9361
of the following: 9362

- (1) The examiner's findings; 9363
- (2) The facts in reasonable detail on which the findings
are based; 9364
9365
- (3) If the evaluation was ordered to determine the 9366
defendant's competence to stand trial, all of the following 9367
findings or recommendations that are applicable: 9368
- (a) Whether the defendant is capable of understanding the 9369
nature and objective of the proceedings against the defendant or 9370
of assisting in the defendant's defense; 9371
- (b) If the examiner's opinion is that the defendant is 9372
incapable of understanding the nature and objective of the 9373
proceedings against the defendant or of assisting in the 9374
defendant's defense, whether the defendant presently is mentally 9375
ill or ~~mentally retarded~~ intellectually disabled and, if the 9376
examiner's opinion is that the defendant presently is ~~mentally~~ 9377
~~retarded~~ intellectually disabled, whether the defendant appears 9378
to be a ~~mentally retarded~~ person with an intellectual disability 9379
subject to institutionalization by court order; 9380
- (c) If the examiner's opinion is that the defendant is 9381
incapable of understanding the nature and objective of the 9382
proceedings against the defendant or of assisting in the 9383
defendant's defense, the examiner's opinion as to the likelihood 9384
of the defendant becoming capable of understanding the nature 9385
and objective of the proceedings against the defendant and of 9386
assisting in the defendant's defense within one year if the 9387
defendant is provided with a course of treatment; 9388
- (d) If the examiner's opinion is that the defendant is 9389
incapable of understanding the nature and objective of the 9390
proceedings against the defendant or of assisting in the 9391

defendant's defense and that the defendant presently is mentally 9392
ill or ~~mentally retarded~~ intellectually disabled, the examiner's 9393
recommendation as to the least restrictive placement or 9394
commitment alternative, consistent with the defendant's 9395
treatment needs for restoration to competency and with the 9396
safety of the community. 9397

(4) If the evaluation was ordered to determine the 9398
defendant's mental condition at the time of the offense charged, 9399
the examiner's findings as to whether the defendant, at the time 9400
of the offense charged, did not know, as a result of a severe 9401
mental disease or defect, the wrongfulness of the defendant's 9402
acts charged. 9403

(H) If the examiner's report filed under division (G) of 9404
this section indicates that in the examiner's opinion the 9405
defendant is incapable of understanding the nature and objective 9406
of the proceedings against the defendant or of assisting in the 9407
defendant's defense and that in the examiner's opinion the 9408
defendant appears to be a ~~mentally retarded~~ person with an 9409
intellectual disability subject to institutionalization by court 9410
order, the court shall order the defendant to undergo a separate 9411
~~mental retardation-intellectual disability~~ evaluation conducted 9412
by a psychologist designated by the director of developmental 9413
disabilities. Divisions (C) to (F) of this section apply in 9414
relation to a separate ~~mental retardation-intellectual~~ 9415
disability evaluation conducted under this division. The 9416
psychologist appointed under this division to conduct the 9417
separate ~~mental retardation-intellectual disability~~ evaluation 9418
shall file a written report with the court within thirty days 9419
after the entry of the court order requiring the separate ~~mental-~~ 9420
~~retardation-intellectual disability~~ evaluation, and the court 9421
shall provide copies of the report to the prosecutor and defense 9422

counsel. The report shall include all of the information 9423
described in divisions (G) (1) to (4) of this section. If the 9424
court orders a separate ~~mental retardation~~ intellectual
disability evaluation of a defendant under this division, the 9425
court shall not conduct a hearing under divisions (B) to (H) of 9426
section 2945.37 of the Revised Code regarding that defendant 9427
until a report of the separate ~~mental retardation~~ intellectual
disability evaluation conducted under this division has been 9428
filed. Upon the filing of that report, the court shall conduct 9429
the hearing within the period of time specified in division (C) 9430
of section 2945.37 of the Revised Code. 9431
9432
9433

(I) An examiner appointed under divisions (A) and (B) of 9434
this section or under division (H) of this section to evaluate a 9435
defendant to determine the defendant's competence to stand trial 9436
also may be appointed to evaluate a defendant who has entered a 9437
plea of not guilty by reason of insanity, but an examiner of 9438
that nature shall prepare separate reports on the issue of 9439
competence to stand trial and the defense of not guilty by 9440
reason of insanity. 9441

(J) No statement that a defendant makes in an evaluation 9442
or hearing under divisions (A) to (H) of this section relating 9443
to the defendant's competence to stand trial or to the 9444
defendant's mental condition at the time of the offense charged 9445
shall be used against the defendant on the issue of guilt in any 9446
criminal action or proceeding, but, in a criminal action or 9447
proceeding, the prosecutor or defense counsel may call as a 9448
witness any person who evaluated the defendant or prepared a 9449
report pursuant to a referral under this section. Neither the 9450
appointment nor the testimony of an examiner appointed under 9451
this section precludes the prosecutor or defense counsel from 9452
calling other witnesses or presenting other evidence on 9453

competency or insanity issues. 9454

(K) Persons appointed as examiners under divisions (A) and 9455
(B) of this section or under division (H) of this section shall 9456
be paid a reasonable amount for their services and expenses, as 9457
certified by the court. The certified amount shall be paid by 9458
the county in the case of county courts and courts of common 9459
pleas and by the legislative authority, as defined in section 9460
1901.03 of the Revised Code, in the case of municipal courts. 9461

Sec. 2945.38. (A) If the issue of a defendant's competence 9462
to stand trial is raised and if the court, upon conducting the 9463
hearing provided for in section 2945.37 of the Revised Code, 9464
finds that the defendant is competent to stand trial, the 9465
defendant shall be proceeded against as provided by law. If the 9466
court finds the defendant competent to stand trial and the 9467
defendant is receiving psychotropic drugs or other medication, 9468
the court may authorize the continued administration of the 9469
drugs or medication or other appropriate treatment in order to 9470
maintain the defendant's competence to stand trial, unless the 9471
defendant's attending physician advises the court against 9472
continuation of the drugs, other medication, or treatment. 9473

(B) (1) (a) If, after taking into consideration all relevant 9474
reports, information, and other evidence, the court finds that 9475
the defendant is incompetent to stand trial and that there is a 9476
substantial probability that the defendant will become competent 9477
to stand trial within one year if the defendant is provided with 9478
a course of treatment, the court shall order the defendant to 9479
undergo treatment. If the defendant has been charged with a 9480
felony offense and if, after taking into consideration all 9481
relevant reports, information, and other evidence, the court 9482
finds that the defendant is incompetent to stand trial, but the 9483

court is unable at that time to determine whether there is a 9484
substantial probability that the defendant will become competent 9485
to stand trial within one year if the defendant is provided with 9486
a course of treatment, the court shall order continuing 9487
evaluation and treatment of the defendant for a period not to 9488
exceed four months to determine whether there is a substantial 9489
probability that the defendant will become competent to stand 9490
trial within one year if the defendant is provided with a course 9491
of treatment. 9492

(b) The court order for the defendant to undergo treatment 9493
or continuing evaluation and treatment under division (B) (1) (a) 9494
of this section shall specify that the defendant, if determined 9495
to require mental health treatment or continuing evaluation and 9496
treatment, either shall be committed to the department of mental 9497
health and addiction services for treatment or continuing 9498
evaluation and treatment at a hospital, facility, or agency, as 9499
determined to be clinically appropriate by the department of 9500
mental health and addiction services or shall be committed to a 9501
facility certified by the department of mental health and 9502
addiction services as being qualified to treat mental illness, 9503
to a public or community mental health facility, or to a 9504
psychiatrist or another mental health professional for treatment 9505
or continuing evaluation and treatment. Prior to placing the 9506
defendant, the department of mental health and addiction 9507
services shall obtain court approval for that placement 9508
following a hearing. The court order for the defendant to 9509
undergo treatment or continuing evaluation and treatment under 9510
division (B) (1) (a) of this section shall specify that the 9511
defendant, if determined to require treatment or continuing 9512
evaluation and treatment for ~~mental retardation~~ an intellectual 9513
disability, shall receive treatment or continuing evaluation and 9514

treatment at an institution or facility operated by the 9515
department of developmental disabilities, at a facility 9516
certified by the department of developmental disabilities as 9517
being qualified to treat ~~mental retardation~~ intellectual 9518
disabilities, at a public or private ~~mental retardation~~ 9519
intellectual disabilities facility, or by a psychiatrist or 9520
another ~~mental retardation~~ intellectual disability professional. 9521
In any case, the order may restrict the defendant's freedom of 9522
movement as the court considers necessary. The prosecutor in the 9523
defendant's case shall send to the chief clinical officer of the 9524
hospital, facility, or agency where the defendant is placed by 9525
the department of mental health and addiction services, or to 9526
the managing officer of the institution, the director of the 9527
program or facility, or the person to which the defendant is 9528
committed, copies of relevant police reports and other 9529
background information that pertains to the defendant and is 9530
available to the prosecutor unless the prosecutor determines 9531
that the release of any of the information in the police reports 9532
or any of the other background information to unauthorized 9533
persons would interfere with the effective prosecution of any 9534
person or would create a substantial risk of harm to any person. 9535

In determining the place of commitment, the court shall 9536
consider the extent to which the person is a danger to the 9537
person and to others, the need for security, and the type of 9538
crime involved and shall order the least restrictive alternative 9539
available that is consistent with public safety and treatment 9540
goals. In weighing these factors, the court shall give 9541
preference to protecting public safety. 9542

(c) If the defendant is found incompetent to stand trial, 9543
if the chief clinical officer of the hospital, facility, or 9544
agency where the defendant is placed, or the managing officer of 9545

the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B) (1) (b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code

alleging that the defendant is a mentally ill person subject to 9577
court order or a ~~mentally retarded~~ person with an intellectual 9578
disability subject to institutionalization by court order. If an 9579
affidavit is filed in the probate court, the trial court shall 9580
send to the probate court copies of all written reports of the 9581
defendant's mental condition that were prepared pursuant to 9582
section 2945.371 of the Revised Code. 9583

The trial court may issue the temporary order of detention 9584
that a probate court may issue under section 5122.11 or 5123.71 9585
of the Revised Code, to remain in effect until the probable 9586
cause or initial hearing in the probate court. Further 9587
proceedings in the probate court are civil proceedings governed 9588
by Chapter 5122. or 5123. of the Revised Code. 9589

(C) No defendant shall be required to undergo treatment, 9590
including any continuing evaluation and treatment, under 9591
division (B) (1) of this section for longer than whichever of the 9592
following periods is applicable: 9593

(1) One year, if the most serious offense with which the 9594
defendant is charged is one of the following offenses: 9595

(a) Aggravated murder, murder, or an offense of violence 9596
for which a sentence of death or life imprisonment may be 9597
imposed; 9598

(b) An offense of violence that is a felony of the first 9599
or second degree; 9600

(c) A conspiracy to commit, an attempt to commit, or 9601
complicity in the commission of an offense described in division 9602
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 9603
complicity is a felony of the first or second degree. 9604

(2) Six months, if the most serious offense with which the 9605

defendant is charged is a felony other than a felony described 9606
in division (C) (1) of this section; 9607

(3) Sixty days, if the most serious offense with which the 9608
defendant is charged is a misdemeanor of the first or second 9609
degree; 9610

(4) Thirty days, if the most serious offense with which 9611
the defendant is charged is a misdemeanor of the third or fourth 9612
degree, a minor misdemeanor, or an unclassified misdemeanor. 9613

(D) Any defendant who is committed pursuant to this 9614
section shall not voluntarily admit the defendant or be 9615
voluntarily admitted to a hospital or institution pursuant to 9616
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 9617
Code. 9618

(E) Except as otherwise provided in this division, a 9619
defendant who is charged with an offense and is committed by the 9620
court under this section to the department of mental health and 9621
addiction services or is committed to an institution or facility 9622
for the treatment of ~~mental retardation~~ an intellectual 9623
disability shall not be granted unsupervised on-grounds 9624
movement, supervised off-grounds movement, or nonsecured status 9625
except in accordance with the court order. The court may grant a 9626
defendant supervised off-grounds movement to obtain medical 9627
treatment or specialized habilitation treatment services if the 9628
person who supervises the treatment or the continuing evaluation 9629
and treatment of the defendant ordered under division (B) (1) (a) 9630
of this section informs the court that the treatment or 9631
continuing evaluation and treatment cannot be provided at the 9632
hospital or facility where the defendant is placed by the 9633
department of mental health and addiction services or the 9634
institution or facility to which the defendant is committed. The 9635

chief clinical officer of the hospital or facility where the 9636
defendant is placed by the department of mental health and 9637
addiction services or the managing officer of the institution or 9638
director of the facility to which the defendant is committed, or 9639
a designee of any of those persons, may grant a defendant 9640
movement to a medical facility for an emergency medical 9641
situation with appropriate supervision to ensure the safety of 9642
the defendant, staff, and community during that emergency 9643
medical situation. The chief clinical officer of the hospital or 9644
facility where the defendant is placed by the department of 9645
mental health and addiction services or the managing officer of 9646
the institution or director of the facility to which the 9647
defendant is committed shall notify the court within twenty-four 9648
hours of the defendant's movement to the medical facility for an 9649
emergency medical situation under this division. 9650

(F) The person who supervises the treatment or continuing 9651
evaluation and treatment of a defendant ordered to undergo 9652
treatment or continuing evaluation and treatment under division 9653
(B) (1) (a) of this section shall file a written report with the 9654
court at the following times: 9655

(1) Whenever the person believes the defendant is capable 9656
of understanding the nature and objective of the proceedings 9657
against the defendant and of assisting in the defendant's 9658
defense; 9659

(2) For a felony offense, fourteen days before expiration 9660
of the maximum time for treatment as specified in division (C) 9661
of this section and fourteen days before the expiration of the 9662
maximum time for continuing evaluation and treatment as 9663
specified in division (B) (1) (a) of this section, and, for a 9664
misdemeanor offense, ten days before the expiration of the 9665

maximum time for treatment, as specified in division (C) of this section; 9666
9667

(3) At a minimum, after each six months of treatment; 9668

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment. 9669
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(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or ~~mentally retarded~~ intellectually disabled, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the defendant's treatment needs for restoration to competency and with the 9676
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safety of the community. The court shall provide copies of the 9696
report to the prosecutor and defense counsel. 9697

(H) If a defendant is committed pursuant to division (B) 9698
(1) of this section, within ten days after the treating 9699
physician of the defendant or the examiner of the defendant who 9700
is employed or retained by the treating facility advises that 9701
there is not a substantial probability that the defendant will 9702
become capable of understanding the nature and objective of the 9703
proceedings against the defendant or of assisting in the 9704
defendant's defense even if the defendant is provided with a 9705
course of treatment, within ten days after the expiration of the 9706
maximum time for treatment as specified in division (C) of this 9707
section, within ten days after the expiration of the maximum 9708
time for continuing evaluation and treatment as specified in 9709
division (B)(1)(a) of this section, within thirty days after a 9710
defendant's request for a hearing that is made after six months 9711
of treatment, or within thirty days after being advised by the 9712
treating physician or examiner that the defendant is competent 9713
to stand trial, whichever is the earliest, the court shall 9714
conduct another hearing to determine if the defendant is 9715
competent to stand trial and shall do whichever of the following 9716
is applicable: 9717

(1) If the court finds that the defendant is competent to 9718
stand trial, the defendant shall be proceeded against as 9719
provided by law. 9720

(2) If the court finds that the defendant is incompetent 9721
to stand trial, but that there is a substantial probability that 9722
the defendant will become competent to stand trial if the 9723
defendant is provided with a course of treatment, and the 9724
maximum time for treatment as specified in division (C) of this 9725

section has not expired, the court, after consideration of the 9726
examiner's recommendation, shall order that treatment be 9727
continued, may change the facility or program at which the 9728
treatment is to be continued, and shall specify whether the 9729
treatment is to be continued at the same or a different facility 9730
or program. 9731

(3) If the court finds that the defendant is incompetent 9732
to stand trial, if the defendant is charged with an offense 9733
listed in division (C)(1) of this section, and if the court 9734
finds that there is not a substantial probability that the 9735
defendant will become competent to stand trial even if the 9736
defendant is provided with a course of treatment, or if the 9737
maximum time for treatment relative to that offense as specified 9738
in division (C) of this section has expired, further proceedings 9739
shall be as provided in sections 2945.39, 2945.401, and 2945.402 9740
of the Revised Code. 9741

(4) If the court finds that the defendant is incompetent 9742
to stand trial, if the most serious offense with which the 9743
defendant is charged is a misdemeanor or a felony other than a 9744
felony listed in division (C)(1) of this section, and if the 9745
court finds that there is not a substantial probability that the 9746
defendant will become competent to stand trial even if the 9747
defendant is provided with a course of treatment, or if the 9748
maximum time for treatment relative to that offense as specified 9749
in division (C) of this section has expired, the court shall 9750
dismiss the indictment, information, or complaint against the 9751
defendant. A dismissal under this division is not a bar to 9752
further prosecution based on the same conduct. The court shall 9753
discharge the defendant unless the court or prosecutor files an 9754
affidavit in probate court for civil commitment pursuant to 9755
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 9756

civil commitment is filed, the court may detain the defendant 9757
for ten days pending civil commitment. All of the following 9758
provisions apply to persons charged with a misdemeanor or a 9759
felony other than a felony listed in division (C)(1) of this 9760
section who are committed by the probate court subsequent to the 9761
court's or prosecutor's filing of an affidavit for civil 9762
commitment under authority of this division: 9763

(a) The chief clinical officer of the entity, hospital, or 9764
facility, the managing officer of the institution, the director 9765
of the program, or the person to which the defendant is 9766
committed or admitted shall do all of the following: 9767

(i) Notify the prosecutor, in writing, of the discharge of 9768
the defendant, send the notice at least ten days prior to the 9769
discharge unless the discharge is by the probate court, and 9770
state in the notice the date on which the defendant will be 9771
discharged; 9772

(ii) Notify the prosecutor, in writing, when the defendant 9773
is absent without leave or is granted unsupervised, off-grounds 9774
movement, and send this notice promptly after the discovery of 9775
the absence without leave or prior to the granting of the 9776
unsupervised, off-grounds movement, whichever is applicable; 9777

(iii) Notify the prosecutor, in writing, of the change of 9778
the defendant's commitment or admission to voluntary status, 9779
send the notice promptly upon learning of the change to 9780
voluntary status, and state in the notice the date on which the 9781
defendant was committed or admitted on a voluntary status. 9782

(b) Upon receiving notice that the defendant will be 9783
granted unsupervised, off-grounds movement, the prosecutor 9784
either shall re-indict the defendant or promptly notify the 9785

court that the prosecutor does not intend to prosecute the 9786
charges against the defendant. 9787

(I) If a defendant is convicted of a crime and sentenced 9788
to a jail or workhouse, the defendant's sentence shall be 9789
reduced by the total number of days the defendant is confined 9790
for evaluation to determine the defendant's competence to stand 9791
trial or treatment under this section and sections 2945.37 and 9792
2945.371 of the Revised Code or by the total number of days the 9793
defendant is confined for evaluation to determine the 9794
defendant's mental condition at the time of the offense charged. 9795

Sec. 2945.39. (A) If a defendant who is charged with an 9796
offense described in division (C)(1) of section 2945.38 of the 9797
Revised Code is found incompetent to stand trial, after the 9798
expiration of the maximum time for treatment as specified in 9799
division (C) of that section or after the court finds that there 9800
is not a substantial probability that the defendant will become 9801
competent to stand trial even if the defendant is provided with 9802
a course of treatment, one of the following applies: 9803

(1) The court or the prosecutor may file an affidavit in 9804
probate court for civil commitment of the defendant in the 9805
manner provided in Chapter 5122. or 5123. of the Revised Code. 9806
If the court or prosecutor files an affidavit for civil 9807
commitment, the court may detain the defendant for ten days 9808
pending civil commitment. If the probate court commits the 9809
defendant subsequent to the court's or prosecutor's filing of an 9810
affidavit for civil commitment, the chief clinical officer of 9811
the entity, hospital, or facility, the managing officer of the 9812
institution, the director of the program, or the person to which 9813
the defendant is committed or admitted shall send to the 9814
prosecutor the notices described in divisions (H)(4)(a)(i) to 9815

(iii) of section 2945.38 of the Revised Code within the periods 9816
of time and under the circumstances specified in those 9817
divisions. 9818

(2) On the motion of the prosecutor or on its own motion, 9819
the court may retain jurisdiction over the defendant if, at a 9820
hearing, the court finds both of the following by clear and 9821
convincing evidence: 9822

(a) The defendant committed the offense with which the 9823
defendant is charged. 9824

(b) The defendant is a mentally ill person subject to 9825
court order or a ~~mentally retarded~~ person with an intellectual 9826
disability subject to institutionalization by court order. 9827

(B) In making its determination under division (A) (2) of 9828
this section as to whether to retain jurisdiction over the 9829
defendant, the court may consider all relevant evidence, 9830
including, but not limited to, any relevant psychiatric, 9831
psychological, or medical testimony or reports, the acts 9832
constituting the offense charged, and any history of the 9833
defendant that is relevant to the defendant's ability to conform 9834
to the law. 9835

(C) If the court conducts a hearing as described in 9836
division (A) (2) of this section and if the court does not make 9837
both findings described in divisions (A) (2) (a) and (b) of this 9838
section by clear and convincing evidence, the court shall 9839
dismiss the indictment, information, or complaint against the 9840
defendant. Upon the dismissal, the court shall discharge the 9841
defendant unless the court or prosecutor files an affidavit in 9842
probate court for civil commitment of the defendant pursuant to 9843
Chapter 5122. or 5123. of the Revised Code. If the court or 9844

prosecutor files an affidavit for civil commitment, the court 9845
may order that the defendant be detained for up to ten days 9846
pending the civil commitment. If the probate court commits the 9847
defendant subsequent to the court's or prosecutor's filing of an 9848
affidavit for civil commitment, the chief clinical officer of 9849
the entity, hospital, or facility, the managing officer of the 9850
institution, the director of the program, or the person to which 9851
the defendant is committed or admitted shall send to the 9852
prosecutor the notices described in divisions (H) (4) (a) (i) to 9853
(iii) of section 2945.38 of the Revised Code within the periods 9854
of time and under the circumstances specified in those 9855
divisions. A dismissal of charges under this division is not a 9856
bar to further criminal proceedings based on the same conduct. 9857

(D) (1) If the court conducts a hearing as described in 9858
division (A) (2) of this section and if the court makes the 9859
findings described in divisions (A) (2) (a) and (b) of this 9860
section by clear and convincing evidence, the court shall commit 9861
the defendant, if determined to require mental health treatment, 9862
either to the department of mental health and addiction services 9863
for treatment at a hospital, facility, or agency as determined 9864
clinically appropriate by the department of mental health and 9865
addiction services or to another medical or psychiatric 9866
facility, as appropriate. Prior to placing the defendant, the 9867
department of mental health and addiction services shall obtain 9868
court approval for that placement. If the court conducts such a 9869
hearing and if it makes those findings by clear and convincing 9870
evidence, the court shall commit the defendant, if determined to 9871
require treatment for ~~mental retardation~~ an intellectual 9872
disability, to a facility operated by the department of 9873
developmental disabilities, or another facility, as appropriate. 9874
In determining the place of commitment, the court shall consider 9875

the extent to which the person is a danger to the person and to 9876
others, the need for security, and the type of crime involved 9877
and shall order the least restrictive alternative available that 9878
is consistent with public safety and the welfare of the 9879
defendant. In weighing these factors, the court shall give 9880
preference to protecting public safety. 9881

(2) If a court makes a commitment of a defendant under 9882
division (D)(1) of this section, the prosecutor shall send to 9883
the hospital, facility, or agency where the defendant is placed 9884
by the department of mental health and addiction services or to 9885
the defendant's place of commitment all reports of the 9886
defendant's current mental condition and, except as otherwise 9887
provided in this division, any other relevant information, 9888
including, but not limited to, a transcript of the hearing held 9889
pursuant to division (A)(2) of this section, copies of relevant 9890
police reports, and copies of any prior arrest and conviction 9891
records that pertain to the defendant and that the prosecutor 9892
possesses. The prosecutor shall send the reports of the 9893
defendant's current mental condition in every case of 9894
commitment, and, unless the prosecutor determines that the 9895
release of any of the other relevant information to unauthorized 9896
persons would interfere with the effective prosecution of any 9897
person or would create a substantial risk of harm to any person, 9898
the prosecutor also shall send the other relevant information. 9899
Upon admission of a defendant committed under division (D)(1) of 9900
this section, the place of commitment shall send to the board of 9901
alcohol, drug addiction, and mental health services or the 9902
community mental health board serving the county in which the 9903
charges against the defendant were filed a copy of all reports 9904
of the defendant's current mental condition and a copy of the 9905
other relevant information provided by the prosecutor under this 9906

division, including, if provided, a transcript of the hearing 9907
held pursuant to division (A)(2) of this section, the relevant 9908
police reports, and the prior arrest and conviction records that 9909
pertain to the defendant and that the prosecutor possesses. 9910

(3) If a court makes a commitment under division (D)(1) of 9911
this section, all further proceedings shall be in accordance 9912
with sections 2945.401 and 2945.402 of the Revised Code. 9913

Sec. 2945.40. (A) If a person is found not guilty by 9914
reason of insanity, the verdict shall state that finding, and 9915
the trial court shall conduct a full hearing to determine 9916
whether the person is a mentally ill person subject to court 9917
order or a ~~mentally retarded person~~ with an intellectual 9918
disability subject to institutionalization by court order. Prior 9919
to the hearing, if the trial judge believes that there is 9920
probable cause that the person found not guilty by reason of 9921
insanity is a mentally ill person subject to court order or 9922
~~mentally retarded person~~ with an intellectual disability subject 9923
to institutionalization by court order, the trial judge may 9924
issue a temporary order of detention for that person to remain 9925
in effect for ten court days or until the hearing, whichever 9926
occurs first. 9927

Any person detained pursuant to a temporary order of 9928
detention issued under this division shall be held in a suitable 9929
facility, taking into consideration the place and type of 9930
confinement prior to and during trial. 9931

(B) The court shall hold the hearing under division (A) of 9932
this section to determine whether the person found not guilty by 9933
reason of insanity is a mentally ill person subject to court 9934
order or a ~~mentally retarded person~~ with an intellectual 9935
disability subject to institutionalization by court order within 9936

ten court days after the finding of not guilty by reason of 9937
insanity. Failure to conduct the hearing within the ten-day 9938
period shall cause the immediate discharge of the respondent, 9939
unless the judge grants a continuance for not longer than ten 9940
court days for good cause shown or for any period of time upon 9941
motion of the respondent. 9942

(C) If a person is found not guilty by reason of insanity, 9943
the person has the right to attend all hearings conducted 9944
pursuant to sections 2945.37 to 2945.402 of the Revised Code. At 9945
any hearing conducted pursuant to one of those sections, the 9946
court shall inform the person that the person has all of the 9947
following rights: 9948

(1) The right to be represented by counsel and to have 9949
that counsel provided at public expense if the person is 9950
indigent, with the counsel to be appointed by the court under 9951
Chapter 120. of the Revised Code or under the authority 9952
recognized in division (C) of section 120.06, division (E) of 9953
section 120.16, division (E) of section 120.26, or section 9954
2941.51 of the Revised Code; 9955

(2) The right to have independent expert evaluation and to 9956
have that independent expert evaluation provided at public 9957
expense if the person is indigent; 9958

(3) The right to subpoena witnesses and documents, to 9959
present evidence on the person's behalf, and to cross-examine 9960
witnesses against the person; 9961

(4) The right to testify in the person's own behalf and to 9962
not be compelled to testify; 9963

(5) The right to have copies of any relevant medical or 9964
mental health document in the custody of the state or of any 9965

place of commitment other than a document for which the court 9966
finds that the release to the person of information contained in 9967
the document would create a substantial risk of harm to any 9968
person. 9969

(D) The hearing under division (A) of this section shall 9970
be open to the public, and the court shall conduct the hearing 9971
in accordance with the Rules of Civil Procedure. The court shall 9972
make and maintain a full transcript and record of the hearing 9973
proceedings. The court may consider all relevant evidence, 9974
including, but not limited to, any relevant psychiatric, 9975
psychological, or medical testimony or reports, the acts 9976
constituting the offense in relation to which the person was 9977
found not guilty by reason of insanity, and any history of the 9978
person that is relevant to the person's ability to conform to 9979
the law. 9980

(E) Upon completion of the hearing under division (A) of 9981
this section, if the court finds there is not clear and 9982
convincing evidence that the person is a mentally ill person 9983
subject to court order or a ~~mentally retarded~~ person with an 9984
intellectual disability subject to institutionalization by court 9985
order, the court shall discharge the person, unless a detainer 9986
has been placed upon the person by the department of 9987
rehabilitation and correction, in which case the person shall be 9988
returned to that department. 9989

(F) If, at the hearing under division (A) of this section, 9990
the court finds by clear and convincing evidence that the person 9991
is a mentally ill person subject to court order, the court shall 9992
commit the person either to the department of mental health and 9993
addiction services for treatment in a hospital, facility, or 9994
agency as determined clinically appropriate by the department of 9995

mental health and addiction services or to another medical or 9996
psychiatric facility, as appropriate. Prior to placing the 9997
defendant, the department of mental health and addiction 9998
services shall obtain court approval for that placement. If, at 9999
the hearing under division (A) of this section, the court 10000
determines by clear and convincing evidence that the person 10001
requires treatment for ~~mental retardation~~ an intellectual 10002
disability, it shall commit the person to a facility operated by 10003
the department of developmental disabilities or another 10004
facility, as appropriate. Further proceedings shall be in 10005
accordance with sections 2945.401 and 2945.402 of the Revised 10006
Code. In determining the place of commitment, the court shall 10007
consider the extent to which the person is a danger to the 10008
person and to others, the need for security, and the type of 10009
crime involved and shall order the least restrictive alternative 10010
available that is consistent with public safety and the welfare 10011
of the person. In weighing these factors, the court shall give 10012
preference to protecting public safety. 10013

(G) If a court makes a commitment of a person under 10014
division (F) of this section, the prosecutor shall send to the 10015
hospital, facility, or agency where the person is placed by the 10016
department of mental health and addiction services or to the 10017
defendant's place of commitment all reports of the person's 10018
current mental condition, and, except as otherwise provided in 10019
this division, any other relevant information, including, but 10020
not limited to, a transcript of the hearing held pursuant to 10021
division (A) of this section, copies of relevant police reports, 10022
and copies of any prior arrest and conviction records that 10023
pertain to the person and that the prosecutor possesses. The 10024
prosecutor shall send the reports of the person's current mental 10025
condition in every case of commitment, and, unless the 10026

prosecutor determines that the release of any of the other 10027
relevant information to unauthorized persons would interfere 10028
with the effective prosecution of any person or would create a 10029
substantial risk of harm to any person, the prosecutor also 10030
shall send the other relevant information. Upon admission of a 10031
person committed under division (F) of this section, the place 10032
of commitment shall send to the board of alcohol, drug 10033
addiction, and mental health services or the community mental 10034
health board serving the county in which the charges against the 10035
person were filed a copy of all reports of the person's current 10036
mental condition and a copy of the other relevant information 10037
provided by the prosecutor under this division, including, if 10038
provided, a transcript of the hearing held pursuant to division 10039
(A) of this section, the relevant police reports, and the prior 10040
arrest and conviction records that pertain to the person and 10041
that the prosecutor possesses. 10042

(H) A person who is committed pursuant to this section 10043
shall not voluntarily admit the person or be voluntarily 10044
admitted to a hospital or institution pursuant to section 10045
5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 10046

Sec. 2945.401. (A) A defendant found incompetent to stand 10047
trial and committed pursuant to section 2945.39 of the Revised 10048
Code or a person found not guilty by reason of insanity and 10049
committed pursuant to section 2945.40 of the Revised Code shall 10050
remain subject to the jurisdiction of the trial court pursuant 10051
to that commitment, and to the provisions of this section, until 10052
the final termination of the commitment as described in division 10053
(J) (1) of this section. If the jurisdiction is terminated under 10054
this division because of the final termination of the commitment 10055
resulting from the expiration of the maximum prison term or term 10056
of imprisonment described in division (J) (1) (b) of this section, 10057

the court or prosecutor may file an affidavit for the civil 10058
commitment of the defendant or person pursuant to Chapter 5122. 10059
or 5123. of the Revised Code. 10060

(B) A hearing conducted under any provision of sections 10061
2945.37 to 2945.402 of the Revised Code shall not be conducted 10062
in accordance with Chapters 5122. and 5123. of the Revised Code. 10063
Any person who is committed pursuant to section 2945.39 or 10064
2945.40 of the Revised Code shall not voluntarily admit the 10065
person or be voluntarily admitted to a hospital or institution 10066
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 10067
Revised Code. All other provisions of Chapters 5122. and 5123. 10068
of the Revised Code regarding hospitalization or 10069
institutionalization shall apply to the extent they are not in 10070
conflict with this chapter. A commitment under section 2945.39 10071
or 2945.40 of the Revised Code shall not be terminated and the 10072
conditions of the commitment shall not be changed except as 10073
otherwise provided in division (D) (2) of this section with 10074
respect to a ~~mentally retarded~~ person with an intellectual 10075
disability subject to institutionalization by court order or 10076
except by order of the trial court. 10077

(C) The department of mental health and addiction services 10078
or the institution, facility, or program to which a defendant or 10079
person has been committed under section 2945.39 or 2945.40 of 10080
the Revised Code shall report in writing to the trial court, at 10081
the times specified in this division, as to whether the 10082
defendant or person remains a mentally ill person subject to 10083
court order or a ~~mentally retarded~~ person with an intellectual 10084
disability subject to institutionalization by court order and, 10085
in the case of a defendant committed under section 2945.39 of 10086
the Revised Code, as to whether the defendant remains 10087
incompetent to stand trial. The department, institution, 10088

facility, or program shall make the reports after the initial 10089
six months of treatment and every two years after the initial 10090
report is made. The trial court shall provide copies of the 10091
reports to the prosecutor and to the counsel for the defendant 10092
or person. Within thirty days after its receipt pursuant to this 10093
division of a report from the department, institution, facility, 10094
or program, the trial court shall hold a hearing on the 10095
continued commitment of the defendant or person or on any 10096
changes in the conditions of the commitment of the defendant or 10097
person. The defendant or person may request a change in the 10098
conditions of confinement, and the trial court shall conduct a 10099
hearing on that request if six months or more have elapsed since 10100
the most recent hearing was conducted under this section. 10101

(D) (1) Except as otherwise provided in division (D) (2) of 10102
this section, when a defendant or person has been committed 10103
under section 2945.39 or 2945.40 of the Revised Code, at any 10104
time after evaluating the risks to public safety and the welfare 10105
of the defendant or person, the designee of the department of 10106
mental health and addiction services or the managing officer of 10107
the institution or director of the facility or program to which 10108
the defendant or person is committed may recommend a termination 10109
of the defendant's or person's commitment or a change in the 10110
conditions of the defendant's or person's commitment. 10111

Except as otherwise provided in division (D) (2) of this 10112
section, if the designee of the department of mental health and 10113
addiction services recommends on-grounds unsupervised movement, 10114
off-grounds supervised movement, or nonsecured status for the 10115
defendant or person or termination of the defendant's or 10116
person's commitment, the following provisions apply: 10117

(a) If the department's designee recommends on-grounds 10118

unsupervised movement or off-grounds supervised movement, the 10119
department's designee shall file with the trial court an 10120
application for approval of the movement and shall send a copy 10121
of the application to the prosecutor. Within fifteen days after 10122
receiving the application, the prosecutor may request a hearing 10123
on the application and, if a hearing is requested, shall so 10124
inform the department's designee. If the prosecutor does not 10125
request a hearing within the fifteen-day period, the trial court 10126
shall approve the application by entering its order approving 10127
the requested movement or, within five days after the expiration 10128
of the fifteen-day period, shall set a date for a hearing on the 10129
application. If the prosecutor requests a hearing on the 10130
application within the fifteen-day period, the trial court shall 10131
hold a hearing on the application within thirty days after the 10132
hearing is requested. If the trial court, within five days after 10133
the expiration of the fifteen-day period, sets a date for a 10134
hearing on the application, the trial court shall hold the 10135
hearing within thirty days after setting the hearing date. At 10136
least fifteen days before any hearing is held under this 10137
division, the trial court shall give the prosecutor written 10138
notice of the date, time, and place of the hearing. At the 10139
conclusion of each hearing conducted under this division, the 10140
trial court either shall approve or disapprove the application 10141
and shall enter its order accordingly. 10142

(b) If the department's designee recommends termination of 10143
the defendant's or person's commitment at any time or if the 10144
department's designee recommends the first of any nonsecured 10145
status for the defendant or person, the department's designee 10146
shall send written notice of this recommendation to the trial 10147
court and to the local forensic center. The local forensic 10148
center shall evaluate the committed defendant or person and, 10149

within thirty days after its receipt of the written notice, 10150
shall submit to the trial court and the department's designee a 10151
written report of the evaluation. The trial court shall provide 10152
a copy of the department's designee's written notice and of the 10153
local forensic center's written report to the prosecutor and to 10154
the counsel for the defendant or person. Upon the local forensic 10155
center's submission of the report to the trial court and the 10156
department's designee, all of the following apply: 10157

(i) If the forensic center disagrees with the 10158
recommendation of the department's designee, it shall inform the 10159
department's designee and the trial court of its decision and 10160
the reasons for the decision. The department's designee, after 10161
consideration of the forensic center's decision, shall either 10162
withdraw, proceed with, or modify and proceed with the 10163
recommendation. If the department's designee proceeds with, or 10164
modifies and proceeds with, the recommendation, the department's 10165
designee shall proceed in accordance with division (D) (1) (b) 10166
(iii) of this section. 10167

(ii) If the forensic center agrees with the recommendation 10168
of the department's designee, it shall inform the department's 10169
designee and the trial court of its decision and the reasons for 10170
the decision, and the department's designee shall proceed in 10171
accordance with division (D) (1) (b) (iii) of this section. 10172

(iii) If the forensic center disagrees with the 10173
recommendation of the department's designee and the department's 10174
designee proceeds with, or modifies and proceeds with, the 10175
recommendation or if the forensic center agrees with the 10176
recommendation of the department's designee, the department's 10177
designee shall work with community mental health services 10178
providers, programs, facilities, or boards of alcohol, drug 10179

addiction, and mental health services or community mental health boards to develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan. The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The department's designee, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area, shall send the recommendation and plan developed under division (D) (1) (b) (iii) of this section, in writing, to the trial court, the prosecutor, and the counsel for the committed defendant or person. The trial court shall conduct a hearing on the recommendation and plan developed under division (D) (1) (b) (iii) of this section. Divisions (D) (1) (c) and (d) and (E) to (J) of this section apply regarding the hearing.

(c) If the department's designee's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or

present other evidence at the hearing in accordance with the 10210
Rules of Evidence. 10211

(d) The trial court shall schedule the hearing on a 10212
department's designee's recommendation for nonsecured status or 10213
termination of commitment and shall give reasonable notice to 10214
the prosecutor and the counsel for the defendant or person. 10215
Unless continued for independent evaluation at the prosecutor's 10216
request or for other good cause, the hearing shall be held 10217
within thirty days after the trial court's receipt of the 10218
recommendation and plan. 10219

(2) (a) Division (D) (1) of this section does not apply to 10220
on-grounds unsupervised movement of a defendant or person who 10221
has been committed under section 2945.39 or 2945.40 of the 10222
Revised Code, who is a ~~mentally retarded~~ person with an 10223
intellectual disability subject to institutionalization by court 10224
order, and who is being provided residential habilitation, care, 10225
and treatment in a facility operated by the department of 10226
developmental disabilities. 10227

(b) If, pursuant to section 2945.39 of the Revised Code, 10228
the trial court commits a defendant who is found incompetent to 10229
stand trial and who is a ~~mentally retarded~~ person with an 10230
intellectual disability subject to institutionalization by court 10231
order, if the defendant is being provided residential 10232
habilitation, care, and treatment in a facility operated by the 10233
department of developmental disabilities, if an individual who 10234
is conducting a survey for the department of health to determine 10235
the facility's compliance with the certification requirements of 10236
the medicaid program cites the defendant's receipt of the 10237
residential habilitation, care, and treatment in the facility as 10238
being inappropriate under the certification requirements, if the 10239

defendant's receipt of the residential habilitation, care, and 10240
treatment in the facility potentially jeopardizes the facility's 10241
continued receipt of federal medicaid moneys, and if as a result 10242
of the citation the chief clinical officer of the facility 10243
determines that the conditions of the defendant's commitment 10244
should be changed, the department of developmental disabilities 10245
may cause the defendant to be removed from the particular 10246
facility and, after evaluating the risks to public safety and 10247
the welfare of the defendant and after determining whether 10248
another type of placement is consistent with the certification 10249
requirements, may place the defendant in another facility that 10250
the department selects as an appropriate facility for the 10251
defendant's continued receipt of residential habilitation, care, 10252
and treatment and that is a no less secure setting than the 10253
facility in which the defendant had been placed at the time of 10254
the citation. Within three days after the defendant's removal 10255
and alternative placement under the circumstances described in 10256
division (D) (2) (b) of this section, the department of 10257
developmental disabilities shall notify the trial court and the 10258
prosecutor in writing of the removal and alternative placement. 10259

The trial court shall set a date for a hearing on the 10260
removal and alternative placement, and the hearing shall be held 10261
within twenty-one days after the trial court's receipt of the 10262
notice from the department of developmental disabilities. At 10263
least ten days before the hearing is held, the trial court shall 10264
give the prosecutor, the department of developmental 10265
disabilities, and the counsel for the defendant written notice 10266
of the date, time, and place of the hearing. At the hearing, the 10267
trial court shall consider the citation issued by the individual 10268
who conducted the survey for the department of health to be 10269
prima-facie evidence of the fact that the defendant's commitment 10270

to the particular facility was inappropriate under the 10271
certification requirements of the medicaid program and 10272
potentially jeopardizes the particular facility's continued 10273
receipt of federal medicaid moneys. At the conclusion of the 10274
hearing, the trial court may approve or disapprove the 10275
defendant's removal and alternative placement. If the trial 10276
court approves the defendant's removal and alternative 10277
placement, the department of developmental disabilities may 10278
continue the defendant's alternative placement. If the trial 10279
court disapproves the defendant's removal and alternative 10280
placement, it shall enter an order modifying the defendant's 10281
removal and alternative placement, but that order shall not 10282
require the department of developmental disabilities to replace 10283
the defendant for purposes of continued residential 10284
habilitation, care, and treatment in the facility associated 10285
with the citation issued by the individual who conducted the 10286
survey for the department of health. 10287

(E) In making a determination under this section regarding 10288
nonsecured status or termination of commitment, the trial court 10289
shall consider all relevant factors, including, but not limited 10290
to, all of the following: 10291

(1) Whether, in the trial court's view, the defendant or 10292
person currently represents a substantial risk of physical harm 10293
to the defendant or person or others; 10294

(2) Psychiatric and medical testimony as to the current 10295
mental and physical condition of the defendant or person; 10296

(3) Whether the defendant or person has insight into the 10297
defendant's or person's condition so that the defendant or 10298
person will continue treatment as prescribed or seek 10299
professional assistance as needed; 10300

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D) (1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D) (1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to court order or a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D) (1)

or (2) of this section, the prosecutor shall represent the state 10330
or the public interest. 10331

(I) At the conclusion of a hearing conducted under 10332
division (D)(1) of this section regarding a recommendation from 10333
the designee of the department of mental health and addiction 10334
services, managing officer of the institution, or director of a 10335
facility or program, the trial court may approve, disapprove, or 10336
modify the recommendation and shall enter an order accordingly. 10337

(J) (1) A defendant or person who has been committed 10338
pursuant to section 2945.39 or 2945.40 of the Revised Code 10339
continues to be under the jurisdiction of the trial court until 10340
the final termination of the commitment. For purposes of 10341
division (J) of this section, the final termination of a 10342
commitment occurs upon the earlier of one of the following: 10343

(a) The defendant or person no longer is a mentally ill 10344
person subject to court order or a ~~mentally retarded~~ person with 10345
an intellectual disability subject to institutionalization by 10346
court order, as determined by the trial court; 10347

(b) The expiration of the maximum prison term or term of 10348
imprisonment that the defendant or person could have received if 10349
the defendant or person had been convicted of the most serious 10350
offense with which the defendant or person is charged or in 10351
relation to which the defendant or person was found not guilty 10352
by reason of insanity; 10353

(c) The trial court enters an order terminating the 10354
commitment under the circumstances described in division (J) (2) 10355
(a) (ii) of this section. 10356

(2) (a) If a defendant is found incompetent to stand trial 10357
and committed pursuant to section 2945.39 of the Revised Code, 10358

if neither of the circumstances described in divisions (J) (1) (a) 10359
and (b) of this section applies to that defendant, and if a 10360
report filed with the trial court pursuant to division (C) of 10361
this section indicates that the defendant presently is competent 10362
to stand trial or if, at any other time during the period of the 10363
defendant's commitment, the prosecutor, the counsel for the 10364
defendant, or the designee of the department of mental health 10365
and addiction services or the managing officer of the 10366
institution or director of the facility or program to which the 10367
defendant is committed files an application with the trial court 10368
alleging that the defendant presently is competent to stand 10369
trial and requesting a hearing on the competency issue or the 10370
trial court otherwise has reasonable cause to believe that the 10371
defendant presently is competent to stand trial and determines 10372
on its own motion to hold a hearing on the competency issue, the 10373
trial court shall schedule a hearing on the competency of the 10374
defendant to stand trial, shall give the prosecutor, the counsel 10375
for the defendant, and the department's designee or the managing 10376
officer of the institution or the director of the facility to 10377
which the defendant is committed notice of the date, time, and 10378
place of the hearing at least fifteen days before the hearing, 10379
and shall conduct the hearing within thirty days of the filing 10380
of the application or of its own motion. If, at the conclusion 10381
of the hearing, the trial court determines that the defendant 10382
presently is capable of understanding the nature and objective 10383
of the proceedings against the defendant and of assisting in the 10384
defendant's defense, the trial court shall order that the 10385
defendant is competent to stand trial and shall be proceeded 10386
against as provided by law with respect to the applicable 10387
offenses described in division (C) (1) of section 2945.38 of the 10388
Revised Code and shall enter whichever of the following 10389
additional orders is appropriate: 10390

(i) If the trial court determines that the defendant 10391
remains a mentally ill person subject to court order or a 10392
~~mentally retarded person~~ with an intellectual disability subject 10393
to institutionalization by court order, the trial court shall 10394
order that the defendant's commitment to the department of 10395
mental health and addiction services or to an institution, 10396
facility, or program for the treatment of ~~mental retardation~~ an 10397
intellectual disability be continued during the pendency of the 10398
trial on the applicable offenses described in division (C)(1) of 10399
section 2945.38 of the Revised Code. 10400

(ii) If the trial court determines that the defendant no 10401
longer is a mentally ill person subject to court order or a 10402
~~mentally retarded person~~ with an intellectual disability subject 10403
to institutionalization by court order, the trial court shall 10404
order that the defendant's commitment to the department of 10405
mental health and addiction services or to an institution, 10406
facility, or program for the treatment of ~~mental retardation~~ an 10407
intellectual disability shall not be continued during the 10408
pendency of the trial on the applicable offenses described in 10409
division (C)(1) of section 2945.38 of the Revised Code. This 10410
order shall be a final termination of the commitment for 10411
purposes of division (J)(1)(c) of this section. 10412

(b) If, at the conclusion of the hearing described in 10413
division (J)(2)(a) of this section, the trial court determines 10414
that the defendant remains incapable of understanding the nature 10415
and objective of the proceedings against the defendant or of 10416
assisting in the defendant's defense, the trial court shall 10417
order that the defendant continues to be incompetent to stand 10418
trial, that the defendant's commitment to the department of 10419
mental health and addiction services or to an institution, 10420
facility, or program for the treatment of ~~mental retardation~~ an 10421

intellectual disability shall be continued, and that the 10422
defendant remains subject to the jurisdiction of the trial court 10423
pursuant to that commitment, and to the provisions of this 10424
section, until the final termination of the commitment as 10425
described in division (J) (1) of this section. 10426

Sec. 2945.482. (A) As used in this section: 10427

(1) "~~Mentally retarded person~~Person with an intellectual 10428
disability" and "~~developmentally disabled person with a~~ 10429
developmental disability" have the same meanings as in section 10430
5123.01 of the Revised Code. 10431

(2) "~~Mentally retarded~~Intellectually disabled or 10432
developmentally disabled victim" includes a ~~mentally retarded or~~ 10433
~~developmentally disabled person with an intellectual or~~ 10434
developmental disability who was a victim of a violation 10435
identified in division (B) (1) of this section or an offense of 10436
violence or against whom was directed any conduct that 10437
constitutes, or that is an element of, a violation identified in 10438
division (B) (1) of this section or an offense of violence. 10439

(B) (1) In any proceeding in the prosecution of a charge of 10440
a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 10441
2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 10442
2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised 10443
Code or an offense of violence and in which an alleged victim of 10444
the violation or offense was a ~~mentally retarded or~~ 10445
~~developmentally disabled person with an intellectual or~~ 10446
developmental disability, the judge of the court in which the 10447
prosecution is being conducted, upon motion of an attorney for 10448
the prosecution, shall order that the testimony of the ~~mentally~~ 10449
~~retarded~~intellectually disabled or developmentally disabled 10450
victim be taken by deposition. The prosecution also may request 10451

that the deposition be videotaped in accordance with division 10452
(B) (2) of this section. The judge shall notify the ~~mentally-~~ 10453
~~retarded~~ intellectually disabled or developmentally disabled 10454
victim whose deposition is to be taken, the prosecution, and the 10455
defense of the date, time, and place for taking the deposition. 10456
The notice shall identify the ~~mentally retarded~~ intellectually 10457
disabled or developmentally disabled victim who is to be 10458
examined and shall indicate whether a request that the 10459
deposition be videotaped has been made. The defendant shall have 10460
the right to attend the deposition and the right to be 10461
represented by counsel. Depositions shall be taken in the manner 10462
provided in civil cases, except that the judge shall preside at 10463
the taking of the deposition and shall rule at the time on any 10464
objections of the prosecution or the attorney for the defense. 10465
The prosecution and the attorney for the defense shall have the 10466
right, as at trial, to full examination and cross-examination of 10467
the ~~mentally retarded~~ intellectually disabled or developmentally 10468
disabled victim whose deposition is to be taken. If a deposition 10469
taken under this division is intended to be offered as evidence 10470
in the proceeding, it shall be filed in the court in which the 10471
action is pending and is admissible in the manner described in 10472
division (C) of this section. 10473

If a deposition of a ~~mentally retarded~~ an intellectually 10474
disabled or developmentally disabled victim taken under this 10475
division is admitted as evidence at the proceeding under 10476
division (C) of this section, the ~~mentally retarded~~ 10477
intellectually disabled or developmentally disabled victim shall 10478
not be required to testify in person at the proceeding. 10479

At any time before the conclusion of the proceeding, the 10480
attorney for the defense may file a motion with the judge 10481
requesting that another deposition of the ~~mentally retarded~~ 10482

intellectually disabled or developmentally disabled victim be 10483
taken because new evidence material to the defense has been 10484
discovered that the attorney for the defense could not with 10485
reasonable diligence have discovered prior to the taking of the 10486
admitted deposition. If the court orders the taking of another 10487
deposition under this provision, the deposition shall be taken 10488
in accordance with this division. If the admitted deposition was 10489
a videotaped deposition taken in accordance with division (B) (2) 10490
of this section, the new deposition shall be videotaped in 10491
accordance with that division. In other cases, the new 10492
deposition may be videotaped in accordance with that division. 10493

(2) If the prosecution requests that a deposition to be 10494
taken under division (B) (2) of this section be videotaped, the 10495
judge shall order that the deposition be videotaped in 10496
accordance with this division. If a judge issues an order that 10497
the deposition be videotaped, the judge shall exclude from the 10498
room in which the deposition is to be taken every person except 10499
the ~~mentally retarded~~ intellectually disabled or developmentally 10500
disabled victim giving the testimony, the judge, one or more 10501
interpreters if needed, the attorneys for the prosecution and 10502
the defense, any person needed to operate the equipment to be 10503
used, one person chosen by the ~~mentally retarded~~ intellectually 10504
disabled or developmentally disabled victim giving the 10505
deposition, and any person whose presence the judge determines 10506
would contribute to the welfare and well-being of the ~~mentally-~~ 10507
~~retarded~~ intellectually disabled or developmentally disabled 10508
victim giving the deposition. The person chosen by the ~~mentally-~~ 10509
~~retarded~~ intellectually disabled or developmentally disabled 10510
victim shall not be a witness in the proceeding and, both before 10511
and during the deposition, shall not discuss the testimony of 10512
the ~~mentally retarded~~ intellectually disabled or developmentally 10513

disabled victim with any other witness in the proceeding. To the 10514
extent feasible, any person operating the recording equipment 10515
shall be restricted to a room adjacent to the room in which the 10516
deposition is being taken, or to a location in the room in which 10517
the deposition is being taken that is behind a screen or mirror, 10518
so that the person operating the recording equipment can see and 10519
hear, but cannot be seen or heard by, the ~~mentally retarded~~ 10520
intellectually disabled or developmentally disabled victim 10521
giving the deposition during the deposition. 10522

The defendant shall be permitted to observe and hear the 10523
testimony of the ~~mentally retarded~~ intellectually disabled or 10524
developmentally disabled victim giving the deposition on a 10525
monitor, shall be provided with an electronic means of immediate 10526
communication with the defendant's attorney during the 10527
testimony, and shall be restricted to a location from which the 10528
defendant cannot be seen or heard by the ~~mentally retarded~~ 10529
intellectually disabled or developmentally disabled victim 10530
giving the deposition, except on a monitor provided for that 10531
purpose. The ~~mentally retarded~~ intellectually disabled or 10532
developmentally disabled victim giving the deposition shall be 10533
provided with a monitor on which the victim can observe, during 10534
the testimony, the defendant. The judge, at the judge's 10535
discretion, may preside at the deposition by electronic means 10536
from outside the room in which the deposition is to be taken. If 10537
the judge presides by electronic means, the judge shall be 10538
provided with monitors on which the judge can see each person in 10539
the room in which the deposition is to be taken and with an 10540
electronic means of communication with each person, and each 10541
person in the room shall be provided with a monitor on which 10542
that person can see the judge and with an electronic means of 10543
communication with the judge. A deposition that is videotaped 10544

under this division shall be taken and filed in the manner 10545
described in division (B) (1) of this section and is admissible 10546
in the manner described in this division and division (C) of 10547
this section, and, if a deposition that is videotaped under this 10548
division is admitted as evidence at the proceeding, the ~~mentally-~~ 10549
~~retarded~~ intellectually disabled or developmentally disabled 10550
victim shall not be required to testify in person at the 10551
proceeding. No deposition videotaped under this division shall 10552
be admitted as evidence at any proceeding unless division (C) of 10553
this section is satisfied relative to the deposition and all of 10554
the following apply relative to the recording: 10555

(a) The recording is both aural and visual and is recorded 10556
on film or videotape, or by other electronic means. 10557

(b) The recording is authenticated under the Rules of 10558
Evidence and the Rules of Criminal Procedure as a fair and 10559
accurate representation of what occurred, and the recording is 10560
not altered other than at the direction and under the 10561
supervision of the judge in the proceeding. 10562

(c) Each voice on the recording that is material to the 10563
testimony on the recording or the making of the recording, as 10564
determined by the judge, is identified. 10565

(d) Both the prosecution and the defendant are afforded an 10566
opportunity to view the recording before it is shown in the 10567
proceeding. 10568

(C) (1) At any proceeding in a prosecution in relation to 10569
which a deposition was taken under division (B) of this section, 10570
the deposition or a part of it is admissible in evidence upon 10571
motion of the prosecution if the testimony in the deposition or 10572
the part to be admitted is not excluded by the hearsay rule and 10573

if the deposition or the part to be admitted otherwise is 10574
admissible under the Rules of Evidence. For purposes of this 10575
division, testimony is not excluded by the hearsay rule if the 10576
testimony is not hearsay under Evidence Rule 801; the testimony 10577
is within an exception to the hearsay rule set forth in Evidence 10578
Rule 803; the ~~mentally retarded~~ intellectually disabled or 10579
developmentally disabled victim who gave the testimony is 10580
unavailable as a witness, as defined in Evidence Rule 804, and 10581
the testimony is admissible under that rule; or both of the 10582
following apply: 10583

(a) The defendant had an opportunity and similar motive at 10584
the time of the taking of the deposition to develop the 10585
testimony by direct, cross, or redirect examination. 10586

(b) The judge determines that there is reasonable cause to 10587
believe that, if the ~~mentally retarded~~ intellectually disabled 10588
or developmentally disabled victim who gave the testimony in the 10589
deposition were to testify in person at the proceeding, the 10590
~~mentally retarded~~ intellectually disabled or developmentally 10591
disabled victim would experience serious emotional trauma as a 10592
result of the ~~mentally retarded~~ intellectually disabled or 10593
developmentally disabled victim's participation at the 10594
proceeding. 10595

(2) Objections to receiving in evidence a deposition or a 10596
part of it under division (C) of this section shall be made as 10597
provided in civil actions. 10598

(3) The provisions of divisions (B) and (C) of this 10599
section are in addition to any other provisions of the Revised 10600
Code, the Rules of Criminal Procedure, or the Rules of Evidence 10601
that pertain to the taking or admission of depositions in a 10602
criminal proceeding and do not limit the admissibility under any 10603

of those other provisions of any deposition taken under division 10604
(B) of this section or otherwise taken. 10605

(D) In any proceeding in the prosecution of any charge of 10606
a violation listed in division (B)(1) of this section or an 10607
offense of violence and in which an alleged victim of the 10608
violation or offense was a ~~mentally retarded or developmentally~~ 10609
~~disabled person~~ with an intellectual or developmental 10610
disability, the prosecution may file a motion with the judge 10611
requesting the judge to order the testimony of the ~~mentally~~ 10612
~~retarded~~ intellectually disabled or developmentally disabled 10613
victim to be taken in a room other than the room in which the 10614
proceeding is being conducted and be televised, by closed 10615
circuit equipment, into the room in which the proceeding is 10616
being conducted to be viewed by the jury, if applicable, the 10617
defendant, and any other persons who are not permitted in the 10618
room in which the testimony is to be taken but who would have 10619
been present during the testimony of the ~~mentally retarded~~ 10620
intellectually disabled or developmentally disabled victim had 10621
it been given in the room in which the proceeding is being 10622
conducted. Except for good cause shown, the prosecution shall 10623
file a motion under this division at least seven days before the 10624
date of the proceeding. The judge may issue the order upon the 10625
motion of the prosecution filed under this section, if the judge 10626
determines that the ~~mentally retarded~~ intellectually disabled or 10627
developmentally disabled victim is unavailable to testify in the 10628
room in which the proceeding is being conducted in the physical 10629
presence of the defendant for one or more of the reasons set 10630
forth in division (F) of this section. If a judge issues an 10631
order of that nature, the judge shall exclude from the room in 10632
which the testimony is to be taken every person except a person 10633
described in division (B)(2) of this section. The judge, at the 10634

judge's discretion, may preside during the giving of the 10635
testimony by electronic means from outside the room in which it 10636
is being given, subject to the limitations set forth in division 10637
(B) (2) of this section. To the extent feasible, any person 10638
operating the televising equipment shall be hidden from the 10639
sight and hearing of the ~~mentally retarded~~ intellectually
disabled or developmentally disabled victim giving the 10640
testimony, in a manner similar to that described in division (B) 10642
(2) of this section. The defendant shall be permitted to observe 10643
and hear the testimony of the ~~mentally retarded~~ intellectually
disabled or developmentally disabled victim giving the testimony 10644
on a monitor, shall be provided with an electronic means of 10645
immediate communication with the defendant's attorney during the 10646
testimony, and shall be restricted to a location from which the 10647
defendant cannot be seen or heard by the ~~mentally retarded~~ 10648
intellectually disabled or developmentally disabled victim 10649
giving the testimony, except on a monitor provided for that 10650
purpose. The ~~mentally retarded~~ intellectually disabled or 10651
developmentally disabled victim giving the testimony shall be 10652
provided with a monitor on which the ~~mentally retarded~~ 10653
intellectually disabled or developmentally disabled victim can 10654
observe, during the testimony, the defendant. 10655

(E) In any proceeding in the prosecution of any charge of 10657
a violation listed in division (B) (1) of this section or an 10658
offense of violence and in which an alleged victim of the 10659
violation or offense was a ~~mentally retarded~~ an intellectually
disabled or developmentally disabled victim, the prosecution may 10660
file a motion with the judge requesting the judge to order the 10661
testimony of the ~~mentally retarded~~ intellectually disabled or 10662
developmentally disabled victim to be taken outside of the room 10663
in which the proceeding is being conducted and be recorded for 10664
10665

showing in the room in which the proceeding is being conducted 10666
before the judge, the jury, if applicable, the defendant, and 10667
any other persons who would have been present during the 10668
testimony of the ~~mentally retarded~~ intellectually disabled or 10669
developmentally disabled victim had it been given in the room in 10670
which the proceeding is being conducted. Except for good cause 10671
shown, the prosecution shall file a motion under this division 10672
at least seven days before the date of the proceeding. The judge 10673
may issue the order upon the motion of the prosecution filed 10674
under this division, if the judge determines that the ~~mentally~~ 10675
~~retarded~~ intellectually disabled or developmentally disabled 10676
victim is unavailable to testify in the room in which the 10677
proceeding is being conducted in the physical presence of the 10678
defendant, for one or more of the reasons set forth in division 10679
(F) of this section. If a judge issues an order of that nature, 10680
the judge shall exclude from the room in which the testimony is 10681
to be taken every person except a person described in division 10682
(B) (2) of this section. To the extent feasible, any person 10683
operating the recording equipment shall be hidden from the sight 10684
and hearing of the ~~mentally retarded~~ intellectually disabled or 10685
developmentally disabled victim giving the testimony, in a 10686
manner similar to that described in division (B) (2) of this 10687
section. The defendant shall be permitted to observe and hear 10688
the testimony of the ~~mentally retarded~~ intellectually disabled 10689
or developmentally disabled victim who is giving the testimony 10690
on a monitor, shall be provided with an electronic means of 10691
immediate communication with the defendant's attorney during the 10692
testimony, and shall be restricted to a location from which the 10693
defendant cannot be seen or heard by the ~~mentally retarded~~ 10694
intellectually disabled or developmentally disabled victim 10695
giving the testimony, except on a monitor provided for that 10696
purpose. The ~~mentally retarded~~ intellectually disabled or 10697

developmentally disabled victim giving the testimony shall be 10698
provided with a monitor on which the victim can observe, during 10699
the testimony, the defendant. No order for the taking of 10700
testimony by recording shall be issued under this division 10701
unless the provisions set forth in divisions (B) (2) (a), (b), 10702
(c), and (d) of this section apply to the recording of the 10703
testimony. 10704

(F) For purposes of divisions (D) and (E) of this section, 10705
a judge may order the testimony of ~~a mentally retarded~~ an 10706
intellectually disabled or developmentally disabled victim to be 10707
taken outside the room in which the proceeding is being 10708
conducted if the judge determines that the ~~mentally retarded~~ 10709
intellectually disabled or developmentally disabled victim is 10710
unavailable to testify in the room in the physical presence of 10711
the defendant due to one or more of the following: 10712

(1) The persistent refusal of the ~~mentally retarded~~ 10713
intellectually disabled or developmentally disabled victim to 10714
testify despite judicial requests to do so; 10715

(2) The inability of the ~~mentally retarded~~ intellectually 10716
disabled or developmentally disabled victim to communicate about 10717
the alleged violation or offense because of extreme fear, 10718
failure of memory, or another similar reason; 10719

(3) The substantial likelihood that the ~~mentally retarded~~ 10720
intellectually disabled or developmentally disabled victim will 10721
suffer serious emotional trauma from so testifying. 10722

(G) (1) If a judge issues an order pursuant to division (D) 10723
or (E) of this section that requires the testimony of ~~a mentally~~ 10724
~~retarded~~ an intellectually disabled or developmentally disabled 10725
victim in a criminal proceeding to be taken outside of the room 10726

in which the proceeding is being conducted, the order shall 10727
specifically identify the ~~mentally retarded~~ intellectually 10728
disabled or developmentally disabled victim to whose testimony 10729
it applies, the order applies only during the testimony of the 10730
specified ~~mentally retarded~~ intellectually disabled or 10731
developmentally disabled victim, and the ~~mentally retarded~~ 10732
intellectually disabled or developmentally disabled victim 10733
giving the testimony shall not be required to testify at the 10734
proceeding other than in accordance with the order. 10735

(2) A judge who makes any determination regarding the 10736
admissibility of a deposition under divisions (B) and (C) of 10737
this section, the videotaping of a deposition under division (B) 10738
(2) of this section, or the taking of testimony outside of the 10739
room in which a proceeding is being conducted under division (D) 10740
or (E) of this section shall enter the determination and 10741
findings on the record in the proceeding. 10742

Sec. 2945.491. (A) As used in this section: 10743

(1) "~~Mentally retarded person~~ Person with an intellectual 10744
disability" and "~~developmentally disabled person with a~~ 10745
developmental disability" have the same meanings as in section 10746
5123.01 of the Revised Code. 10747

(2) "~~Mentally retarded~~ Intellectually disabled or 10748
developmentally disabled victim" includes a ~~mentally retarded or~~ 10749
~~developmentally disabled person with an intellectual or~~ 10750
developmental disability who was a victim of a felony violation 10751
identified in division (B)(1) of this section or a felony 10752
offense of violence or against whom was directed any conduct 10753
that constitutes, or that is an element of, a felony violation 10754
identified in division (B)(1) of this section or a felony 10755
offense of violence. 10756

(B) (1) At a trial on a charge of a felony violation of 10757
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 10758
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 10759
2907.323 of the Revised Code or an offense of violence and in 10760
which an alleged victim of the violation or offense was a 10761
~~mentally retarded or developmentally disabled person~~ with an 10762
intellectual or developmental disability, the court, upon motion 10763
of the prosecutor in the case, may admit videotaped preliminary 10764
hearing testimony of the ~~mentally retarded~~ intellectually 10765
disabled or developmentally disabled victim as evidence at the 10766
trial, in lieu of the ~~mentally retarded~~ intellectually disabled 10767
or developmentally disabled victim appearing as a witness and 10768
testifying at trial, if all of the following apply: 10769

(a) The videotape of the testimony was made at the 10770
preliminary hearing at which probable cause of the violation 10771
charged was found. 10772

(b) The videotape of the testimony was made in accordance 10773
with division (C) of section 2937.11 of the Revised Code. 10774

(c) The testimony in the videotape is not excluded by the 10775
hearsay rule and otherwise is admissible under the Rules of 10776
Evidence. For purposes of this division, testimony is not 10777
excluded by the hearsay rule if the testimony is not hearsay 10778
under Evidence Rule 801, the testimony is within an exception to 10779
the hearsay rule set forth in Evidence Rule 803, the ~~mentally-~~ 10780
~~retarded~~ intellectually disabled or developmentally disabled 10781
victim who gave the testimony is unavailable as a witness, as 10782
defined in Evidence Rule 804, and the testimony is admissible 10783
under that rule, or both of the following apply: 10784

(i) The accused had an opportunity and similar motive at 10785
the preliminary hearing to develop the testimony of the ~~mentally-~~ 10786

~~retarded~~ intellectually disabled or developmentally disabled 10787
victim by direct, cross, or redirect examination. 10788

(ii) The court determines that there is reasonable cause 10789
to believe that if the ~~mentally retarded~~ intellectually disabled 10790
or developmentally disabled victim who gave the testimony at the 10791
preliminary hearing were to testify in person at the trial, the 10792
~~mentally retarded~~ intellectually disabled or developmentally 10793
disabled victim would experience serious emotional trauma as a 10794
result of the victim's participation at the trial. 10795

(2) If a ~~mentally retarded~~ an intellectually disabled or 10796
developmentally disabled victim of an alleged felony violation 10797
of section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 10798
2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, 10799
or 2907.323 of the Revised Code or an alleged felony offense of 10800
violence testifies at the preliminary hearing in the case, if 10801
the testimony of the ~~mentally retarded~~ intellectually disabled 10802
or developmentally disabled victim at the preliminary hearing 10803
was videotaped pursuant to division (C) of section 2937.11 of 10804
the Revised Code, and if the defendant in the case files a 10805
written objection to the use, pursuant to division (B)(1) of 10806
this section, of the videotaped testimony at the trial, the 10807
court, immediately after the filing of the objection, shall hold 10808
a hearing to determine whether the videotaped testimony of the 10809
~~mentally retarded~~ intellectually disabled or developmentally 10810
disabled victim should be admissible at trial under division (B) 10811
(1) of this section and, if it is admissible, whether the 10812
~~mentally retarded~~ intellectually disabled or developmentally 10813
disabled victim should be required to provide limited additional 10814
testimony of the type described in this division. At the hearing 10815
held pursuant to this division, the defendant and the prosecutor 10816
in the case may present any evidence that is relevant to the 10817

issues to be determined at the hearing, but the ~~mentally-~~ 10818
~~retarded-intellectually disabled~~ or developmentally disabled 10819
victim shall not be required to testify at the hearing. 10820

After the hearing, the court shall not require the 10821
~~mentally-retarded-intellectually disabled~~ or developmentally 10822
disabled victim to testify at the trial, unless it determines 10823
that both of the following apply: 10824

(a) That the testimony of the ~~mentally-retarded-~~ 10825
~~intellectually disabled~~ or developmentally disabled victim at 10826
trial is necessary for one or more of the following reasons: 10827

(i) Evidence that was not available at the time of the 10828
testimony of the ~~mentally-retarded-intellectually disabled~~ or 10829
developmentally disabled victim at the preliminary hearing has 10830
been discovered. 10831

(ii) The circumstances surrounding the case have changed 10832
sufficiently to necessitate that the ~~mentally-retarded-~~ 10833
~~intellectually disabled~~ or developmentally disabled victim 10834
testify at the trial. 10835

(b) That the testimony of the ~~mentally-retarded-~~ 10836
~~intellectually disabled~~ or developmentally disabled victim at 10837
the trial is necessary to protect the right of the defendant to 10838
a fair trial. 10839

The court shall enter its finding and the reasons for it 10840
in the journal. If the court requires the ~~mentally-retarded-~~ 10841
~~intellectually disabled~~ or developmentally disabled victim to 10842
testify at the trial, the testimony of the victim shall be 10843
limited to the new evidence and changed circumstances, and the 10844
~~mentally-retarded-intellectually disabled~~ or developmentally 10845
disabled victim shall not otherwise be required to testify at 10846

the trial. The required testimony of the ~~mentally retarded~~ 10847
intellectually disabled or developmentally disabled victim may 10848
be given in person or, upon motion of the prosecution, may be 10849
taken by deposition in accordance with division (B) of section 10850
2945.482 of the Revised Code provided the deposition is admitted 10851
as evidence under division (C) of that section, may be taken 10852
outside of the courtroom and televised into the courtroom in 10853
accordance with division (D) of that section, or may be taken 10854
outside of the courtroom and recorded for showing in the 10855
courtroom in accordance with division (E) of that section. 10856

(3) If videotaped testimony of a ~~mentally retarded~~ an 10857
intellectually disabled or developmentally disabled victim is 10858
admitted at trial in accordance with division (B) (1) of this 10859
section, the ~~mentally retarded~~ intellectually disabled or 10860
developmentally disabled victim shall not be compelled in any 10861
way to appear as a witness at the trial, except as provided in 10862
division (B) (2) of this section. 10863

(C) An order issued pursuant to division (B) of this 10864
section shall specifically identify the ~~mentally retarded~~ 10865
intellectually disabled or developmentally disabled victim 10866
concerning whose testimony it pertains. The order shall apply 10867
only during the testimony of the ~~mentally retarded~~ 10868
intellectually disabled or developmentally disabled victim it 10869
specifically identifies. 10870

Sec. 2949.29. (A) The prosecuting attorney, the convict, 10871
and the convict's counsel shall attend an inquiry commenced as 10872
provided in section 2949.28 of the Revised Code. The prosecuting 10873
attorney and the convict or the convict's counsel may produce, 10874
examine, and cross-examine witnesses, and all findings shall be 10875
in writing signed by the judge. If it is found that the convict 10876

is not insane, the sentence shall be executed at the time 10877
previously appointed, unless that time has passed pending 10878
completion of the inquiry, in which case the judge conducting 10879
the inquiry, if authorized by the supreme court, shall appoint a 10880
time for execution of the sentence to be effective fifteen days 10881
from the date of the entry of the judge's findings in the 10882
inquiry. 10883

(B) If it is found that the convict is insane and if 10884
authorized by the supreme court, the judge shall continue any 10885
stay of execution of the sentence previously issued, order the 10886
convict to be confined in the area at which other convicts 10887
sentenced to death are confined or in a maximum security medical 10888
or psychiatric facility operated by the department of 10889
rehabilitation and correction, and order treatment of the 10890
convict. Thereafter, the court at any time may conduct and, on 10891
motion of the prosecuting attorney, shall conduct a hearing 10892
pursuant to division (A) of this section to continue the inquiry 10893
into the convict's insanity and, as provided in section 2949.28 10894
of the Revised Code, may appoint one or more psychiatrists or 10895
psychologists to make a further examination of the convict and 10896
to submit a report to the court. If the court finds at the 10897
hearing that the convict is not insane and if the time 10898
previously appointed for execution of the sentence has not 10899
passed, the sentence shall be executed at the previously 10900
appointed time. If the court finds at the hearing that the 10901
convict is not insane and if the time previously appointed for 10902
execution of the sentence has passed, the judge who conducts the 10903
hearing, if authorized by the supreme court, shall appoint a new 10904
time for execution of the sentence to be effective fifteen days 10905
from the date of the entry of the judge's findings in the 10906
hearing. 10907

(C) In all proceedings under this section, the convict is presumed not to be insane, and the court shall find that the convict is not insane unless the court finds by a preponderance of the evidence that the convict is insane.

(D) Proceedings for inquiry into the insanity of any convict sentenced to death shall be exclusively pursuant to this section, section 2949.28 of the Revised Code, and the Rules of Evidence. Neither Chapter 5122. or 5123. of the Revised Code nor any other provision of the Revised Code nor any other rule concerning mentally ill persons, ~~mentally retarded~~ intellectually disabled persons, or insane persons applies to any proceeding for inquiry into the insanity of any convict sentenced to death.

Sec. 2950.01. As used in this chapter, unless the context clearly requires otherwise:

(A) "Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age:

(1) A violation of section 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code;

(2) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(3) A violation of section 2907.04 of the Revised Code 10937
when the offender is at least four years older than the other 10938
person with whom the offender engaged in sexual conduct or when 10939
the offender is less than four years older than the other person 10940
with whom the offender engaged in sexual conduct and the 10941
offender previously has been convicted of or pleaded guilty to a 10942
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10943
Code or a violation of former section 2907.12 of the Revised 10944
Code; 10945

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 10946
the Revised Code when the violation was committed with a sexual 10947
motivation; 10948

(5) A violation of division (A) of section 2903.04 of the 10949
Revised Code when the offender committed or attempted to commit 10950
the felony that is the basis of the violation with a sexual 10951
motivation; 10952

(6) A violation of division (A) (3) of section 2903.211 of 10953
the Revised Code; 10954

(7) A violation of division (A) (1), (2), (3), or (5) of 10955
section 2905.01 of the Revised Code when the offense is 10956
committed with a sexual motivation; 10957

(8) A violation of division (A) (4) of section 2905.01 of 10958
the Revised Code; 10959

(9) A violation of division (B) of section 2905.01 of the 10960
Revised Code when the victim of the offense is under eighteen 10961
years of age and the offender is not a parent of the victim of 10962
the offense; 10963

(10) A violation of division (B) of section 2903.03, of 10964
division (B) of section 2905.02, of division (B) of section 10965

2905.03, of division (B) of section 2905.05, or of division (B) 10966
(5) of section 2919.22 of the Revised Code; 10967

(11) A violation of section 2905.32 of the Revised Code 10968
when any of the following applies: 10969

(a) The violation is a violation of division (A) (1) of 10970
that section and the offender knowingly recruited, lured, 10971
enticed, isolated, harbored, transported, provided, obtained, or 10972
maintained, or knowingly attempted to recruit, lure, entice, 10973
isolate, harbor, transport, provide, obtain, or maintain, 10974
another person knowing that the person would be compelled to 10975
engage in sexual activity for hire, engage in a performance that 10976
was obscene, sexually oriented, or nudity oriented, or be a 10977
model or participant in the production of material that was 10978
obscene, sexually oriented, or nudity oriented. 10979

(b) The violation is a violation of division (A) (2) of 10980
that section and the offender knowingly recruited, lured, 10981
enticed, isolated, harbored, transported, provided, obtained, or 10982
maintained, or knowingly attempted to recruit, lure, entice, 10983
isolate, harbor, transport, provide, obtain, or maintain a 10984
person who is less than sixteen years of age or is a 10985
~~developmentally disabled person~~ with a developmental disability 10986
whom the offender knows or has reasonable cause to believe is a 10987
~~developmentally disabled person~~ with a developmental disability 10988
for any purpose listed in divisions (A) (2) (a) to (c) of that 10989
section. 10990

(c) The violation is a violation of division (A) (3) of 10991
that section, the offender knowingly recruited, lured, enticed, 10992
isolated, harbored, transported, provided, obtained, or 10993
maintained, or knowingly attempted to recruit, lure, entice, 10994
isolate, harbor, transport, provide, obtain, or maintain a 10995

person who is sixteen or seventeen years of age for any purpose 10996
listed in divisions (A) (2) (a) to (c) of that section, and the 10997
circumstances described in division (A) (5), (6), (7), (8), (9), 10998
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 10999
apply with respect to the offender and the other person. 11000

(12) A violation of any former law of this state, any 11001
existing or former municipal ordinance or law of another state 11002
or the United States, any existing or former law applicable in a 11003
military court or in an Indian tribal court, or any existing or 11004
former law of any nation other than the United States that is or 11005
was substantially equivalent to any offense listed in division 11006
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of 11007
this section; 11008

(13) A violation of division (A) (3) of section 2907.24 of 11009
the Revised Code; 11010

(14) Any attempt to commit, conspiracy to commit, or 11011
complicity in committing any offense listed in division (A) (1), 11012
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 11013
(13) of this section. 11014

(B) (1) "Sex offender" means, subject to division (B) (2) of 11015
this section, a person who is convicted of, pleads guilty to, 11016
has been convicted of, has pleaded guilty to, is adjudicated a 11017
delinquent child for committing, or has been adjudicated a 11018
delinquent child for committing any sexually oriented offense. 11019

(2) "Sex offender" does not include a person who is 11020
convicted of, pleads guilty to, has been convicted of, has 11021
pleaded guilty to, is adjudicated a delinquent child for 11022
committing, or has been adjudicated a delinquent child for 11023
committing a sexually oriented offense if the offense involves 11024

consensual sexual conduct or consensual sexual contact and 11025
either of the following applies: 11026

(a) The victim of the sexually oriented offense was 11027
eighteen years of age or older and at the time of the sexually 11028
oriented offense was not under the custodial authority of the 11029
person who is convicted of, pleads guilty to, has been convicted 11030
of, has pleaded guilty to, is adjudicated a delinquent child for 11031
committing, or has been adjudicated a delinquent child for 11032
committing the sexually oriented offense. 11033

(b) The victim of the offense was thirteen years of age or 11034
older, and the person who is convicted of, pleads guilty to, has 11035
been convicted of, has pleaded guilty to, is adjudicated a 11036
delinquent child for committing, or has been adjudicated a 11037
delinquent child for committing the sexually oriented offense is 11038
not more than four years older than the victim. 11039

(c) "Child-victim oriented offense" means any of the 11040
following violations or offenses committed by a person, 11041
regardless of the person's age, when the victim is under 11042
eighteen years of age and is not a child of the person who 11043
commits the violation: 11044

(1) A violation of division (A) (1), (2), (3), or (5) of 11045
section 2905.01 of the Revised Code when the violation is not 11046
included in division (A) (7) of this section; 11047

(2) A violation of division (A) of section 2905.02, 11048
division (A) of section 2905.03, or division (A) of section 11049
2905.05 of the Revised Code; 11050

(3) A violation of any former law of this state, any 11051
existing or former municipal ordinance or law of another state 11052
or the United States, any existing or former law applicable in a 11053

military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (C) (1) or (2) of this section;

(4) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (C) (1), (2), or (3) of this section.

(D) "Child-victim offender" means a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any child-victim oriented offense.

(E) "Tier I sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.06, 2907.07, 2907.08, 2907.22, or 2907.32 of the Revised Code;

(b) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(c) A violation of division (A) (1), (2), (3), or (5) of section 2907.05 of the Revised Code;

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code; 11083
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(e) A violation of division (A) (3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code; 11085
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(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E) (1) (a), (b), (c), (d), or (e) of this section; 11088
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(g) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E) (1) (a), (b), (c), (d), (e), or (f) of this section. 11095
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(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F) (2) or (G) (2) of this section. 11098
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(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense. 11103
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(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented 11109
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offense and who a juvenile court, pursuant to section 2152.82, 11112
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 11113
tier I sex offender/child-victim offender relative to the 11114
offense. 11115

(F) "Tier II sex offender/child-victim offender" means any 11116
of the following: 11117

(1) A sex offender who is convicted of, pleads guilty to, 11118
has been convicted of, or has pleaded guilty to any of the 11119
following sexually oriented offenses: 11120

(a) A violation of section 2907.21, 2907.321, or 2907.322 11121
of the Revised Code; 11122

(b) A violation of section 2907.04 of the Revised Code 11123
when the offender is at least four years older than the other 11124
person with whom the offender engaged in sexual conduct, or when 11125
the offender is less than four years older than the other person 11126
with whom the offender engaged in sexual conduct and the 11127
offender previously has been convicted of or pleaded guilty to a 11128
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 11129
Code or former section 2907.12 of the Revised Code; 11130

(c) A violation of division (A) (4) of section 2907.05, of 11131
division (A) (3) of section 2907.24, or of division (A) (1) or (2) 11132
of section 2907.323 of the Revised Code; 11133

(d) A violation of division (A) (1), (2), (3), or (5) of 11134
section 2905.01 of the Revised Code when the offense is 11135
committed with a sexual motivation; 11136

(e) A violation of division (A) (4) of section 2905.01 of 11137
the Revised Code when the victim of the offense is eighteen 11138
years of age or older; 11139

(f) A violation of division (B) of section 2905.02 or of 11140
division (B) (5) of section 2919.22 of the Revised Code; 11141

(g) A violation of section 2905.32 of the Revised Code 11142
that is described in division (A) (11) (a), (b), or (c) of this 11143
section; 11144

(h) A violation of any former law of this state, any 11145
existing or former municipal ordinance or law of another state 11146
or the United States, any existing or former law applicable in a 11147
military court or in an Indian tribal court, or any existing or 11148
former law of any nation other than the United States that is or 11149
was substantially equivalent to any offense listed in division 11150
(F) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 11151

(i) Any attempt to commit, conspiracy to commit, or 11152
complicity in committing any offense listed in division (F) (1) 11153
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 11154

(j) Any sexually oriented offense that is committed after 11155
the sex offender previously has been convicted of, pleaded 11156
guilty to, or has been adjudicated a delinquent child for 11157
committing any sexually oriented offense or child-victim 11158
oriented offense for which the offender was classified a tier I 11159
sex offender/child-victim offender. 11160

(2) A child-victim offender who is convicted of, pleads 11161
guilty to, has been convicted of, or has pleaded guilty to any 11162
child-victim oriented offense when the child-victim oriented 11163
offense is committed after the child-victim offender previously 11164
has been convicted of, pleaded guilty to, or been adjudicated a 11165
delinquent child for committing any sexually oriented offense or 11166
child-victim oriented offense for which the offender was 11167
classified a tier I sex offender/child-victim offender. 11168

(3) A sex offender who is adjudicated a delinquent child 11169
for committing or has been adjudicated a delinquent child for 11170
committing any sexually oriented offense and who a juvenile 11171
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 11172
of the Revised Code, classifies a tier II sex offender/child- 11173
victim offender relative to the offense. 11174

(4) A child-victim offender who is adjudicated a 11175
delinquent child for committing or has been adjudicated a 11176
delinquent child for committing any child-victim oriented 11177
offense and whom a juvenile court, pursuant to section 2152.82, 11178
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 11179
tier II sex offender/child-victim offender relative to the 11180
current offense. 11181

(5) A sex offender or child-victim offender who is not in 11182
any category of tier II sex offender/child-victim offender set 11183
forth in division (F)(1), (2), (3), or (4) of this section, who 11184
prior to January 1, 2008, was adjudicated a delinquent child for 11185
committing a sexually oriented offense or child-victim oriented 11186
offense, and who prior to that date was determined to be a 11187
habitual sex offender or determined to be a habitual child- 11188
victim offender, unless either of the following applies: 11189

(a) The sex offender or child-victim offender is 11190
reclassified pursuant to section 2950.031 or 2950.032 of the 11191
Revised Code as a tier I sex offender/child-victim offender or a 11192
tier III sex offender/child-victim offender relative to the 11193
offense. 11194

(b) A juvenile court, pursuant to section 2152.82, 11195
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the 11196
child a tier I sex offender/child-victim offender or a tier III 11197
sex offender/child-victim offender relative to the offense. 11198

(G) "Tier III sex offender/child-victim offender" means 11199
any of the following: 11200

(1) A sex offender who is convicted of, pleads guilty to, 11201
has been convicted of, or has pleaded guilty to any of the 11202
following sexually oriented offenses: 11203

(a) A violation of section 2907.02 or 2907.03 of the 11204
Revised Code; 11205

(b) A violation of division (B) of section 2907.05 of the 11206
Revised Code; 11207

(c) A violation of section 2903.01, 2903.02, or 2903.11 of 11208
the Revised Code when the violation was committed with a sexual 11209
motivation; 11210

(d) A violation of division (A) of section 2903.04 of the 11211
Revised Code when the offender committed or attempted to commit 11212
the felony that is the basis of the violation with a sexual 11213
motivation; 11214

(e) A violation of division (A) (4) of section 2905.01 of 11215
the Revised Code when the victim of the offense is under 11216
eighteen years of age; 11217

(f) A violation of division (B) of section 2905.01 of the 11218
Revised Code when the victim of the offense is under eighteen 11219
years of age and the offender is not a parent of the victim of 11220
the offense; 11221

(g) A violation of division (B) of section 2903.03 of the 11222
Revised Code; 11223

(h) A violation of any former law of this state, any 11224
existing or former municipal ordinance or law of another state 11225
or the United States, any existing or former law applicable in a 11226

military court or in an Indian tribal court, or any existing or 11227
former law of any nation other than the United States that is or 11228
was substantially equivalent to any offense listed in division 11229
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 11230

(i) Any attempt to commit, conspiracy to commit, or 11231
complicity in committing any offense listed in division (G) (1) 11232
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 11233

(j) Any sexually oriented offense that is committed after 11234
the sex offender previously has been convicted of, pleaded 11235
guilty to, or been adjudicated a delinquent child for committing 11236
any sexually oriented offense or child-victim oriented offense 11237
for which the offender was classified a tier II sex 11238
offender/child-victim offender or a tier III sex offender/child- 11239
victim offender. 11240

(2) A child-victim offender who is convicted of, pleads 11241
guilty to, has been convicted of, or has pleaded guilty to any 11242
child-victim oriented offense when the child-victim oriented 11243
offense is committed after the child-victim offender previously 11244
has been convicted of, pleaded guilty to, or been adjudicated a 11245
delinquent child for committing any sexually oriented offense or 11246
child-victim oriented offense for which the offender was 11247
classified a tier II sex offender/child-victim offender or a 11248
tier III sex offender/child-victim offender. 11249

(3) A sex offender who is adjudicated a delinquent child 11250
for committing or has been adjudicated a delinquent child for 11251
committing any sexually oriented offense and who a juvenile 11252
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 11253
of the Revised Code, classifies a tier III sex offender/child- 11254
victim offender relative to the offense. 11255

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier III sex offender/child-victim offender set forth in division (G)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or adjudicated a child-victim predator, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(b) The sex offender or child-victim offender is a delinquent child, and a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented

offense, if the sexually oriented offense and the circumstances 11286
in which it was committed are such that division (F) of section 11287
2971.03 of the Revised Code automatically classifies the 11288
offender as a tier III sex offender/child-victim offender; 11289

(7) A sex offender or child-victim offender who is 11290
convicted of, pleads guilty to, was convicted of, pleaded guilty 11291
to, is adjudicated a delinquent child for committing, or was 11292
adjudicated a delinquent child for committing a sexually 11293
oriented offense or child-victim offense in another state, in a 11294
federal court, military court, or Indian tribal court, or in a 11295
court in any nation other than the United States if both of the 11296
following apply: 11297

(a) Under the law of the jurisdiction in which the 11298
offender was convicted or pleaded guilty or the delinquent child 11299
was adjudicated, the offender or delinquent child is in a 11300
category substantially equivalent to a category of tier III sex 11301
offender/child-victim offender described in division (G) (1), 11302
(2), (3), (4), (5), or (6) of this section. 11303

(b) Subsequent to the conviction, plea of guilty, or 11304
adjudication in the other jurisdiction, the offender or 11305
delinquent child resides, has temporary domicile, attends school 11306
or an institution of higher education, is employed, or intends 11307
to reside in this state in any manner and for any period of time 11308
that subjects the offender or delinquent child to a duty to 11309
register or provide notice of intent to reside under section 11310
2950.04 or 2950.041 of the Revised Code. 11311

(H) "Confinement" includes, but is not limited to, a 11312
community residential sanction imposed pursuant to section 11313
2929.16 or 2929.26 of the Revised Code. 11314

(I) "Prosecutor" has the same meaning as in section 11315
2935.01 of the Revised Code. 11316

(J) "Supervised release" means a release of an offender 11317
from a prison term, a term of imprisonment, or another type of 11318
confinement that satisfies either of the following conditions: 11319

(1) The release is on parole, a conditional pardon, under 11320
a community control sanction, under transitional control, or 11321
under a post-release control sanction, and it requires the 11322
person to report to or be supervised by a parole officer, 11323
probation officer, field officer, or another type of supervising 11324
officer. 11325

(2) The release is any type of release that is not 11326
described in division (J) (1) of this section and that requires 11327
the person to report to or be supervised by a probation officer, 11328
a parole officer, a field officer, or another type of 11329
supervising officer. 11330

(K) "Sexually violent predator specification," "sexually 11331
violent predator," "sexually violent offense," "sexual 11332
motivation specification," "designated homicide, assault, or 11333
kidnapping offense," and "violent sex offense" have the same 11334
meanings as in section 2971.01 of the Revised Code. 11335

(L) "Post-release control sanction" and "transitional 11336
control" have the same meanings as in section 2967.01 of the 11337
Revised Code. 11338

(M) "Juvenile offender registrant" means a person who is 11339
adjudicated a delinquent child for committing on or after 11340
January 1, 2002, a sexually oriented offense or a child-victim 11341
oriented offense, who is fourteen years of age or older at the 11342
time of committing the offense, and who a juvenile court judge, 11343

pursuant to an order issued under section 2152.82, 2152.83, 11344
2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a 11345
juvenile offender registrant and specifies has a duty to comply 11346
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 11347
Revised Code. "Juvenile offender registrant" includes a person 11348
who prior to January 1, 2008, was a "juvenile offender 11349
registrant" under the definition of the term in existence prior 11350
to January 1, 2008, and a person who prior to July 31, 2003, was 11351
a "juvenile sex offender registrant" under the former definition 11352
of that former term. 11353

(N) "Public registry-qualified juvenile offender 11354
registrant" means a person who is adjudicated a delinquent child 11355
and on whom a juvenile court has imposed a serious youthful 11356
offender dispositional sentence under section 2152.13 of the 11357
Revised Code before, on, or after January 1, 2008, and to whom 11358
all of the following apply: 11359

(1) The person is adjudicated a delinquent child for 11360
committing, attempting to commit, conspiring to commit, or 11361
complicity in committing one of the following acts: 11362

(a) A violation of section 2907.02 of the Revised Code, 11363
division (B) of section 2907.05 of the Revised Code, or section 11364
2907.03 of the Revised Code if the victim of the violation was 11365
less than twelve years of age; 11366

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 11367
the Revised Code that was committed with a purpose to gratify 11368
the sexual needs or desires of the child; 11369

(c) A violation of division (B) of section 2903.03 of the 11370
Revised Code. 11371

(2) The person was fourteen, fifteen, sixteen, or 11372

seventeen years of age at the time of committing the act. 11373

(3) A juvenile court judge, pursuant to an order issued 11374
under section 2152.86 of the Revised Code, classifies the person 11375
a juvenile offender registrant, specifies the person has a duty 11376
to comply with sections 2950.04, 2950.05, and 2950.06 of the 11377
Revised Code, and classifies the person a public registry- 11378
qualified juvenile offender registrant, and the classification 11379
of the person as a public registry-qualified juvenile offender 11380
registrant has not been terminated pursuant to division (D) of 11381
section 2152.86 of the Revised Code. 11382

(O) "Secure facility" means any facility that is designed 11383
and operated to ensure that all of its entrances and exits are 11384
locked and under the exclusive control of its staff and to 11385
ensure that, because of that exclusive control, no person who is 11386
institutionalized or confined in the facility may leave the 11387
facility without permission or supervision. 11388

(P) "Out-of-state juvenile offender registrant" means a 11389
person who is adjudicated a delinquent child in a court in 11390
another state, in a federal court, military court, or Indian 11391
tribal court, or in a court in any nation other than the United 11392
States for committing a sexually oriented offense or a child- 11393
victim oriented offense, who on or after January 1, 2002, moves 11394
to and resides in this state or temporarily is domiciled in this 11395
state for more than five days, and who has a duty under section 11396
2950.04 or 2950.041 of the Revised Code to register in this 11397
state and the duty to otherwise comply with that applicable 11398
section and sections 2950.05 and 2950.06 of the Revised Code. 11399
"Out-of-state juvenile offender registrant" includes a person 11400
who prior to January 1, 2008, was an "out-of-state juvenile 11401
offender registrant" under the definition of the term in 11402

existence prior to January 1, 2008, and a person who prior to 11403
July 31, 2003, was an "out-of-state juvenile sex offender 11404
registrant" under the former definition of that former term. 11405

(Q) "Juvenile court judge" includes a magistrate to whom 11406
the juvenile court judge confers duties pursuant to division (A) 11407
(15) of section 2151.23 of the Revised Code. 11408

(R) "Adjudicated a delinquent child for committing a 11409
sexually oriented offense" includes a child who receives a 11410
serious youthful offender dispositional sentence under section 11411
2152.13 of the Revised Code for committing a sexually oriented 11412
offense. 11413

(S) "School" and "school premises" have the same meanings 11414
as in section 2925.01 of the Revised Code. 11415

(T) "Residential premises" means the building in which a 11416
residential unit is located and the grounds upon which that 11417
building stands, extending to the perimeter of the property. 11418
"Residential premises" includes any type of structure in which a 11419
residential unit is located, including, but not limited to, 11420
multi-unit buildings and mobile and manufactured homes. 11421

(U) "Residential unit" means a dwelling unit for 11422
residential use and occupancy, and includes the structure or 11423
part of a structure that is used as a home, residence, or 11424
sleeping place by one person who maintains a household or two or 11425
more persons who maintain a common household. "Residential unit" 11426
does not include a halfway house or a community-based 11427
correctional facility. 11428

(V) "Multi-unit building" means a building in which is 11429
located more than twelve residential units that have entry doors 11430
that open directly into the unit from a hallway that is shared 11431

with one or more other units. A residential unit is not 11432
considered located in a multi-unit building if the unit does not 11433
have an entry door that opens directly into the unit from a 11434
hallway that is shared with one or more other units or if the 11435
unit is in a building that is not a multi-unit building as 11436
described in this division. 11437

(W) "Community control sanction" has the same meaning as 11438
in section 2929.01 of the Revised Code. 11439

(X) "Halfway house" and "community-based correctional 11440
facility" have the same meanings as in section 2929.01 of the 11441
Revised Code. 11442

Sec. 2951.041. (A) (1) If an offender is charged with a 11443
criminal offense, including but not limited to a violation of 11444
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 11445
of the Revised Code, and the court has reason to believe that 11446
drug or alcohol usage by the offender was a factor leading to 11447
the criminal offense with which the offender is charged or that, 11448
at the time of committing that offense, the offender had a 11449
mental illness, was a person with intellectual disability, or 11450
was a victim of a violation of section 2905.32 of the Revised 11451
Code and that the mental illness, status as a person with 11452
intellectual disability, or fact that the offender was a victim 11453
of a violation of section 2905.32 of the Revised Code was a 11454
factor leading to the offender's criminal behavior, the court 11455
may accept, prior to the entry of a guilty plea, the offender's 11456
request for intervention in lieu of conviction. The request 11457
shall include a statement from the offender as to whether the 11458
offender is alleging that drug or alcohol usage by the offender 11459
was a factor leading to the criminal offense with which the 11460
offender is charged or is alleging that, at the time of 11461

committing that offense, the offender had a mental illness, was 11462
a person with intellectual disability, or was a victim of a 11463
violation of section 2905.32 of the Revised Code and that the 11464
mental illness, status as a person with intellectual disability, 11465
or fact that the offender was a victim of a violation of section 11466
2905.32 of the Revised Code was a factor leading to the criminal 11467
offense with which the offender is charged. The request also 11468
shall include a waiver of the defendant's right to a speedy 11469
trial, the preliminary hearing, the time period within which the 11470
grand jury may consider an indictment against the offender, and 11471
arraignment, unless the hearing, indictment, or arraignment has 11472
already occurred. The court may reject an offender's request 11473
without a hearing. If the court elects to consider an offender's 11474
request, the court shall conduct a hearing to determine whether 11475
the offender is eligible under this section for intervention in 11476
lieu of conviction and shall stay all criminal proceedings 11477
pending the outcome of the hearing. If the court schedules a 11478
hearing, the court shall order an assessment of the offender for 11479
the purpose of determining the offender's eligibility for 11480
intervention in lieu of conviction and recommending an 11481
appropriate intervention plan. 11482

If the offender alleges that drug or alcohol usage by the 11483
offender was a factor leading to the criminal offense with which 11484
the offender is charged, the court may order that the offender 11485
be assessed by an addiction services provider certified pursuant 11486
to section 5119.36 of the Revised Code or a properly 11487
credentialed professional for the purpose of determining the 11488
offender's eligibility for intervention in lieu of conviction 11489
and recommending an appropriate intervention plan. The addiction 11490
services provider or the properly credentialed professional 11491
shall provide a written assessment of the offender to the court. 11492

(2) The victim notification provisions of division (C) of section 2930.08 of the Revised Code apply in relation to any hearing held under division (A) (1) of this section.

(B) An offender is eligible for intervention in lieu of conviction if the court finds all of the following:

(1) The offender previously has not been convicted of or pleaded guilty to a felony offense of violence or previously has been convicted of or pleaded guilty to any felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for participation in intervention in lieu of treatment under this section, previously has not been through intervention in lieu of conviction under this section or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose a community control sanction on the offender under division (B) (2) of section 2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of division (A) (1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A) (1) of section 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term, a mandatory term of local incarceration, or a mandatory term of imprisonment in a jail.

(3) The offender is not charged with a violation of section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not charged with a violation of section 2925.03 of the Revised Code that is a felony of the first, second, third, or fourth degree,

and is not charged with a violation of section 2925.11 of the Revised Code that is a felony of the first, second, or third degree.

(4) If an offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court has ordered that the offender be assessed by an addiction services provider certified pursuant to section 5119.36 of the Revised Code or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the offender has been assessed by an addiction services provider of that nature or a properly credentialed professional in accordance with the court's order, and the addiction services provider or properly credentialed professional has filed the written assessment of the offender with the court.

(5) If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness, was a person with intellectual disability, or was a victim of a violation of section 2905.32 of the Revised Code and that the mental illness, status as a person with intellectual disability, or fact that the offender was a victim of a violation of section 2905.32 of the Revised Code was a factor leading to that offense, the offender has been assessed by a psychiatrist, psychologist, independent social worker, licensed professional clinical counselor, or independent marriage and family therapist for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.

(6) The offender's drug usage, alcohol usage, mental

illness, or intellectual disability, or the fact that the 11553
offender was a victim of a violation of section 2905.32 of the 11554
Revised Code, whichever is applicable, was a factor leading to 11555
the criminal offense with which the offender is charged, 11556
intervention in lieu of conviction would not demean the 11557
seriousness of the offense, and intervention would substantially 11558
reduce the likelihood of any future criminal activity. 11559

(7) The alleged victim of the offense was not sixty-five 11560
years of age or older, permanently and totally disabled, under 11561
thirteen years of age, or a peace officer engaged in the 11562
officer's official duties at the time of the alleged offense. 11563

(8) If the offender is charged with a violation of section 11564
2925.24 of the Revised Code, the alleged violation did not 11565
result in physical harm to any person, and the offender 11566
previously has not been treated for drug abuse. 11567

(9) The offender is willing to comply with all terms and 11568
conditions imposed by the court pursuant to division (D) of this 11569
section. 11570

(10) The offender is not charged with an offense that 11571
would result in the offender being disqualified under Chapter 11572
4506. of the Revised Code from operating a commercial motor 11573
vehicle or would subject the offender to any other sanction 11574
under that chapter. 11575

(C) At the conclusion of a hearing held pursuant to 11576
division (A) of this section, the court shall enter its 11577
determination as to whether the offender is eligible for 11578
intervention in lieu of conviction and as to whether to grant 11579
the offender's request. If the court finds under division (B) of 11580
this section that the offender is eligible for intervention in 11581

lieu of conviction and grants the offender's request, the court 11582
shall accept the offender's plea of guilty and waiver of the 11583
defendant's right to a speedy trial, the preliminary hearing, 11584
the time period within which the grand jury may consider an 11585
indictment against the offender, and arraignment, unless the 11586
hearing, indictment, or arraignment has already occurred. In 11587
addition, the court then may stay all criminal proceedings and 11588
order the offender to comply with all terms and conditions 11589
imposed by the court pursuant to division (D) of this section. 11590
If the court finds that the offender is not eligible or does not 11591
grant the offender's request, the criminal proceedings against 11592
the offender shall proceed as if the offender's request for 11593
intervention in lieu of conviction had not been made. 11594

(D) If the court grants an offender's request for 11595
intervention in lieu of conviction, the court shall place the 11596
offender under the general control and supervision of the county 11597
probation department, the adult parole authority, or another 11598
appropriate local probation or court services agency, if one 11599
exists, as if the offender was subject to a community control 11600
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 11601
the Revised Code. The court shall establish an intervention plan 11602
for the offender. The terms and conditions of the intervention 11603
plan shall require the offender, for at least one year from the 11604
date on which the court grants the order of intervention in lieu 11605
of conviction, to abstain from the use of illegal drugs and 11606
alcohol, to participate in treatment and recovery support 11607
services, and to submit to regular random testing for drug and 11608
alcohol use and may include any other treatment terms and 11609
conditions, or terms and conditions similar to community control 11610
sanctions, which may include community service or restitution, 11611
that are ordered by the court. 11612

(E) If the court grants an offender's request for intervention in lieu of conviction and the court finds that the offender has successfully completed the intervention plan for the offender, including the requirement that the offender abstain from using illegal drugs and alcohol for a period of at least one year from the date on which the court granted the order of intervention in lieu of conviction, the requirement that the offender participate in treatment and recovery support services, and all other terms and conditions ordered by the court, the court shall dismiss the proceedings against the offender. Successful completion of the intervention plan and period of abstinence under this section shall be without adjudication of guilt and is not a criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime, and the court may order the sealing of records related to the offense in question in the manner provided in sections 2953.31 to 2953.36 of the Revised Code.

(F) If the court grants an offender's request for intervention in lieu of conviction and the offender fails to comply with any term or condition imposed as part of the intervention plan for the offender, the supervising authority for the offender promptly shall advise the court of this failure, and the court shall hold a hearing to determine whether the offender failed to comply with any term or condition imposed as part of the plan. If the court determines that the offender has failed to comply with any of those terms and conditions, it shall enter a finding of guilty and shall impose an appropriate sanction under Chapter 2929. of the Revised Code. If the court sentences the offender to a prison term, the court, after consulting with the department of rehabilitation and correction

regarding the availability of services, may order continued 11644
court-supervised activity and treatment of the offender during 11645
the prison term and, upon consideration of reports received from 11646
the department concerning the offender's progress in the program 11647
of activity and treatment, may consider judicial release under 11648
section 2929.20 of the Revised Code. 11649

(G) As used in this section: 11650

(1) "Community control sanction" has the same meaning as 11651
in section 2929.01 of the Revised Code. 11652

(2) "Intervention in lieu of conviction" means any court- 11653
supervised activity that complies with this section. 11654

(3) "Peace officer" has the same meaning as in section 11655
2935.01 of the Revised Code. 11656

(4) "Mental illness" and "psychiatrist" have the same 11657
meanings as in section 5122.01 of the Revised Code. 11658

(5) "Person with intellectual disability" means a person 11659
having significantly subaverage general intellectual functioning 11660
existing concurrently with deficiencies in adaptive behavior, 11661
manifested during the developmental period. 11662

(6) "Psychologist" has the same meaning as in section 11663
4732.01 of the Revised Code. 11664

(H) Whenever the term "mentally retarded person," 11665
"intellectually disabled person," or "person with an 11666
intellectual disability" is used in any statute, rule, contract, 11667
grant, or other document, the reference shall be deemed to 11668
include a "person with intellectual disability," as defined in 11669
this section. 11670

Sec. 2967.22. Whenever it is brought to the attention of 11671

the adult parole authority or a department of probation that a 11672
parolee, person under a community control sanction, person under 11673
transitional control, or releasee appears to be a mentally ill 11674
person subject to court order, as defined in section 5122.01 of 11675
the Revised Code, or a ~~mentally retarded~~ person with an 11676
intellectual disability subject to institutionalization by court 11677
order, as defined in section 5123.01 of the Revised Code, the 11678
parole or probation officer, subject to the approval of the 11679
chief of the adult parole authority, the designee of the chief 11680
of the adult parole authority, or the chief probation officer, 11681
may file an affidavit under section 5122.11 or 5123.71 of the 11682
Revised Code. A parolee, person under a community control 11683
sanction, or releasee who is involuntarily detained under 11684
Chapter 5122. or 5123. of the Revised Code shall receive credit 11685
against the period of parole or community control or the term of 11686
post-release control for the period of involuntary detention. 11687

If a parolee, person under a community control sanction, 11688
person under transitional control, or releasee escapes from an 11689
institution or facility within the department of mental health 11690
and addiction services or the department of developmental 11691
disabilities, the superintendent of the institution immediately 11692
shall notify the chief of the adult parole authority or the 11693
chief probation officer. Notwithstanding the provisions of 11694
section 5122.26 of the Revised Code, the procedure for the 11695
apprehension, detention, and return of the parolee, person under 11696
a community control sanction, person under transitional control, 11697
or releasee is the same as that provided for the apprehension, 11698
detention, and return of persons who escape from institutions 11699
operated by the department of rehabilitation and correction. If 11700
the escaped parolee, person under transitional control, or 11701
releasee is not apprehended and returned to the custody of the 11702

department of mental health and addiction services or the 11703
department of developmental disabilities within ninety days 11704
after the escape, the parolee, person under transitional 11705
control, or releasee shall be discharged from the custody of the 11706
department of mental health and addiction services or the 11707
department of developmental disabilities and returned to the 11708
custody of the department of rehabilitation and correction. If 11709
the escaped person under a community control sanction is not 11710
apprehended and returned to the custody of the department of 11711
mental health and addiction services or the department of 11712
developmental disabilities within ninety days after the escape, 11713
the person under a community control sanction shall be 11714
discharged from the custody of the department of mental health 11715
and addiction services or the department of developmental 11716
disabilities and returned to the custody of the court that 11717
sentenced that person. 11718

Sec. 3107.02. (A) Any minor may be adopted. 11719

(B) An adult may be adopted under any of the following 11720
conditions: 11721

(1) If the adult is totally or permanently disabled; 11722

(2) If the adult is determined to be a ~~mentally retarded~~ 11723
person with an intellectual disability; 11724

(3) If the adult had established a child-foster caregiver, 11725
kinship caregiver, or child-stepparent relationship with the 11726
petitioners as a minor, and the adult consents to the adoption; 11727

(4) If the adult was, at the time of the adult's 11728
eighteenth birthday, in the permanent custody of or in a planned 11729
permanent living arrangement with a public children services 11730
agency or a private child placing agency, and the adult consents 11731

to the adoption; 11732

(5) If the adult is the child of the spouse of the 11733
petitioner, and the adult consents to the adoption. 11734

(C) When proceedings to adopt a minor are initiated by the 11735
filing of a petition, and the eighteenth birthday of the minor 11736
occurs prior to the decision of the court, the court shall 11737
require the person who is to be adopted to submit a written 11738
statement of consent or objection to the adoption. If an 11739
objection is submitted, the petition shall be dismissed, and if 11740
a consent is submitted, the court shall proceed with the case, 11741
and may issue an interlocutory order or final decree of 11742
adoption. 11743

(D) Any physical examination of the individual to be 11744
adopted as part of or in contemplation of a petition to adopt 11745
may be conducted by any health professional authorized by the 11746
Revised Code to perform physical examinations, including a 11747
physician assistant, a clinical nurse specialist, a certified 11748
nurse practitioner, or a certified nurse-midwife. Any written 11749
documentation of the physical examination shall be completed by 11750
the healthcare professional who conducted the examination. 11751

(E) An adult who consents to an adoption pursuant to 11752
division (B) (4) of this section shall provide the court with the 11753
name and contact information of the public children services 11754
agency or private child placing agency that had permanent 11755
custody of or a planned permanent living arrangement with that 11756
adult. The petitioner shall request verification from the agency 11757
as to whether the adult was or was not in the permanent custody 11758
of or in a planned permanent living arrangement with that agency 11759
at the time of the adult's eighteenth birthday and provide the 11760
verification to the court. 11761

(F) As used in this section:	11762
(1) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code.	11763 11764
(2) " Mentally retarded person <u>Person with an intellectual disability</u> " has the same meaning as in section 5123.01 of the Revised Code.	11765 11766 11767
(3) "Permanent custody" and "planned permanent living arrangement" have the same meanings as in section 2151.011 of the Revised Code.	11768 11769 11770
Sec. 3323.01. As used in this chapter:	11771
(A) "Child with a disability" means a child who is at least three years of age and less than twenty-two years of age; who has mental retardation <u>an intellectual disability</u> , a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability (including dyslexia), deaf-blindness, or multiple disabilities; and who, by reason thereof, needs special education and related services.	11772 11773 11774 11775 11776 11777 11778 11779 11780 11781
A "child with a disability" may include a child who is at least three years of age and less than six years of age; who is experiencing developmental delays, as defined by standards adopted by the state board of education and as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, needs special education and related services.	11782 11783 11784 11785 11786 11787 11788 11789 11790

(B) "County DD board" means a county board of developmental disabilities.	11791 11792
(C) "Free appropriate public education" means special education and related services that meet all of the following:	11793 11794
(1) Are provided at public expense, under public supervision and direction, and without charge;	11795 11796
(2) Meet the standards of the state board of education;	11797
(3) Include an appropriate preschool, elementary, or secondary education as otherwise provided by the law of this state;	11798 11799 11800
(4) Are provided for each child with a disability in conformity with the child's individualized education program.	11801 11802
(D) "Homeless children" means "homeless children and youths" as defined in section 725 of the "McKinney-Vento Homeless Assistance Act," 42 U.S.C. 11434a.	11803 11804 11805
(E) "Individualized education program" or "IEP" means the written statement described in section 3323.011 of the Revised Code.	11806 11807 11808
(F) "Individualized education program team" or "IEP team" means a group of individuals composed of:	11809 11810
(1) The parents of a child with a disability;	11811
(2) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment;	11812 11813 11814
(3) At least one special education teacher, or where appropriate, at least one special education provider of the child;	11815 11816 11817

- (4) A representative of the school district who meets all 11818
of the following: 11819
- (a) Is qualified to provide, or supervise the provision 11820
of, specially designed instruction to meet the unique needs of 11821
children with disabilities; 11822
- (b) Is knowledgeable about the general education 11823
curriculum; 11824
- (c) Is knowledgeable about the availability of resources 11825
of the school district. 11826
- (5) An individual who can interpret the instructional 11827
implications of evaluation results, who may be a member of the 11828
team as described in divisions (F) (2) to (4) of this section; 11829
- (6) At the discretion of the parent or the school 11830
district, other individuals who have knowledge or special 11831
expertise regarding the child, including related services 11832
personnel as appropriate; 11833
- (7) Whenever appropriate, the child with a disability. 11834
- (G) "Instruction in braille reading and writing" means the 11835
teaching of the system of reading and writing through touch 11836
commonly known as standard English braille. 11837
- (H) "Other educational agency" means a department, 11838
division, bureau, office, institution, board, commission, 11839
committee, authority, or other state or local agency, which is 11840
not a city, local, or exempted village school district or an 11841
agency administered by the department of developmental 11842
disabilities, that provides or seeks to provide special 11843
education or related services to children with disabilities. The 11844
term "other educational agency" includes a joint vocational 11845

school district. 11846

(I) "Parent" of a child with a disability, except as used 11847
in sections 3323.09 and 3323.141 of the Revised Code, means: 11848

(1) A natural or adoptive parent of a child but not a 11849
foster parent of a child; 11850

(2) A guardian, but not the state if the child is a ward 11851
of the state; 11852

(3) An individual acting in the place of a natural or 11853
adoptive parent, including a grandparent, stepparent, or other 11854
relative, with whom the child lives, or an individual who is 11855
legally responsible for the child's welfare; 11856

(4) An individual assigned to be a surrogate parent, 11857
provided the individual is not prohibited by this chapter from 11858
serving as a surrogate parent for a child. 11859

(J) "Preschool child with a disability" means a child with 11860
a disability who is at least three years of age but is not of 11861
compulsory school age, as defined under section 3321.01 of the 11862
Revised Code, and who is not currently enrolled in kindergarten. 11863

(K) "Related services" means transportation, and such 11864
developmental, corrective, and other supportive services 11865
(including speech-language pathology and audiology services, 11866
interpreting services, psychological services, physical and 11867
occupational therapy, recreation, including therapeutic 11868
recreation, school nurse services designed to enable a child 11869
with a disability to receive a free appropriate public education 11870
as described in the individualized education program of the 11871
child, counseling services, including rehabilitation counseling, 11872
orientation and mobility services, school health services, 11873
social work services in schools, and parent counseling and 11874

training, and medical services, except that such medical 11875
services shall be for diagnostic and evaluation purposes only) 11876
as may be required to assist a child with a disability to 11877
benefit from special education, and includes the early 11878
identification and assessment of disabling conditions in 11879
children. "Related services" does not include a medical device 11880
that is surgically implanted, or the replacement of such device. 11881

(L) "School district" means a city, local, or exempted 11882
village school district. 11883

(M) "School district of residence," as used in sections 11884
3323.09, 3323.091, 3323.13, and 3323.14 of the Revised Code, 11885
means: 11886

(1) The school district in which the child's natural or 11887
adoptive parents reside; 11888

(2) If the school district specified in division (M) (1) of 11889
this section cannot be determined, the last school district in 11890
which the child's natural or adoptive parents are known to have 11891
resided if the parents' whereabouts are unknown; 11892

(3) If the school district specified in division (M) (2) of 11893
this section cannot be determined, the school district 11894
determined under section 2151.362 of the Revised Code, or if no 11895
district has been so determined, the school district as 11896
determined by the probate court of the county in which the child 11897
resides. 11898

(4) Notwithstanding divisions (M) (1) to (3) of this 11899
section, if a school district is required by section 3313.65 of 11900
the Revised Code to pay tuition for a child, that district shall 11901
be the child's school district of residence. 11902

(N) "Special education" means specially designed 11903

instruction, at no cost to parents, to meet the unique needs of 11904
a child with a disability. "Special education" includes 11905
instruction conducted in the classroom, in the home, in 11906
hospitals and institutions, and in other settings, including an 11907
early childhood education setting, and instruction in physical 11908
education. 11909

(O) "Student with a visual impairment" means any person 11910
who is less than twenty-two years of age and who has a visual 11911
impairment as that term is defined in this section. 11912

(P) "Transition services" means a coordinated set of 11913
activities for a child with a disability that meet all of the 11914
following: 11915

(1) Is designed to be within a results-oriented process, 11916
that is focused on improving the academic and functional 11917
achievement of the child with a disability to facilitate the 11918
child's movement from school to post-school activities, 11919
including post-secondary education; vocational education; 11920
integrated employment (including supported employment); 11921
continuing and adult education; adult services; independent 11922
living; or community participation; 11923

(2) Is based on the individual child's needs, taking into 11924
account the child's strengths, preferences, and interests; 11925

(3) Includes instruction, related services, community 11926
experiences, the development of employment and other post-school 11927
adult living objectives, and, when appropriate, acquisition of 11928
daily living skills and functional vocational evaluation. 11929

"Transition services" for children with disabilities may 11930
be special education, if provided as specially designed 11931
instruction, or may be a related service, if required to assist 11932

a child with a disability to benefit from special education. 11933

(Q) "Visual impairment" for any individual means that one 11934
of the following applies to the individual: 11935

(1) The individual has a visual acuity of 20/200 or less 11936
in the better eye with correcting lenses or has a limited field 11937
of vision in the better eye such that the widest diameter 11938
subtends an angular distance of no greater than twenty degrees. 11939

(2) The individual has a medically indicated expectation 11940
of meeting the requirements of division (Q) (1) of this section 11941
over a period of time. 11942

(3) The individual has a medically diagnosed and medically 11943
uncorrectable limitation in visual functioning that adversely 11944
affects the individual's ability to read and write standard 11945
print at levels expected of the individual's peers of comparable 11946
ability and grade level. 11947

(R) "Ward of the state" has the same meaning as in section 11948
602(36) of the "Individuals with Disabilities Education 11949
Improvement Act of 2004," 20 U.S.C. 1401(36). 11950

Sec. 3701.881. (A) As used in this section: 11951

(1) "Applicant" means a person who is under final 11952
consideration for employment with a home health agency in a 11953
full-time, part-time, or temporary position that involves 11954
providing direct care to an individual or is referred to a home 11955
health agency by an employment service for such a position. 11956

(2) "Community-based long-term care provider" means a 11957
provider as defined in section 173.39 of the Revised Code. 11958

(3) "Community-based long-term care subcontractor" means a 11959
subcontractor as defined in section 173.38 of the Revised Code. 11960

- (4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 11961
11962
- (5) "Direct care" means any of the following: 11963
- (a) Any service identified in divisions (A)(8)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home; 11964
11965
11966
- (b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient; 11967
11968
11969
11970
- (c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care. 11971
11972
11973
- (6) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code. 11974
11975
11976
- (7) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service. 11977
11978
11979
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11981
- (8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home: 11982
11983
11984
11985
11986
11987
- (a) Skilled nursing care; 11988

(b) Physical therapy;	11989
(c) Speech-language pathology;	11990
(d) Occupational therapy;	11991
(e) Medical social services;	11992
(f) Home health aide services.	11993
(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:	11994
	11995
(a) Hands-on bathing or assistance with a tub bath or shower;	11996
	11997
(b) Assistance with dressing, ambulation, and toileting;	11998
(c) Catheter care but not insertion;	11999
(d) Meal preparation and feeding.	12000
(10) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	12001
	12002
	12003
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	12004
	12005
	12006
(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	12007
	12008
(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	12009
	12010
	12011
(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	12012
	12013

- (15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code. 12014
12015
- (16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker. 12016
12017
12018
- (17) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code. 12019
12020
- (18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code. 12021
12022
- (B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply: 12023
12024
12025
12026
- (1) A review of the databases listed in division (D) of this section reveals any of the following: 12027
12028
- (a) That the applicant or employee is included in one or more of the databases listed in divisions (D) (1) to (5) of this section; 12029
12030
12031
- (b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident; 12032
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- (c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee 12038
12039
12040
12041

included in such a database in a position that involves 12042
providing direct care to an individual. 12043

(2) After the applicant or employee is provided, pursuant 12044
to division (E) (2) (a) of this section, a copy of the form 12045
prescribed pursuant to division (C) (1) of section 109.572 of the 12046
Revised Code and the standard impression sheet prescribed 12047
pursuant to division (C) (2) of that section, the applicant or 12048
employee fails to complete the form or provide the applicant's 12049
or employee's fingerprint impressions on the standard impression 12050
sheet. 12051

(3) Except as provided in rules adopted under this 12052
section, the applicant or employee is found by a criminal 12053
records check required by this section to have been convicted 12054
of, pleaded guilty to, or been found eligible for intervention 12055
in lieu of conviction for a disqualifying offense. 12056

(C) Except as provided by division (F) of this section, 12057
the chief administrator of a home health agency shall inform 12058
each applicant of both of the following at the time of the 12059
applicant's initial application for employment or referral to 12060
the home health agency by an employment service for a position 12061
that involves providing direct care to an individual: 12062

(1) That a review of the databases listed in division (D) 12063
of this section will be conducted to determine whether the home 12064
health agency is prohibited by division (B) (1) of this section 12065
from employing the applicant in the position; 12066

(2) That, unless the database review reveals that the 12067
applicant may not be employed in the position, a criminal 12068
records check of the applicant will be conducted and the 12069
applicant is required to provide a set of the applicant's 12070

fingerprint impressions as part of the criminal records check. 12071

(D) As a condition of employing any applicant in a 12072
position that involves providing direct care to an individual, 12073
the chief administrator of a home health agency shall conduct a 12074
database review of the applicant in accordance with rules 12075
adopted under this section. If rules adopted under this section 12076
so require, the chief administrator of a home health agency 12077
shall conduct a database review of an employee in accordance 12078
with the rules as a condition of continuing to employ the 12079
employee in a position that involves providing direct care to an 12080
individual. However, the chief administrator is not required to 12081
conduct a database review of an applicant or employee if 12082
division (F) of this section applies. A database review shall 12083
determine whether the applicant or employee is included in any 12084
of the following: 12085

(1) The excluded parties list system that is maintained by 12086
the United States general services administration pursuant to 12087
subpart 9.4 of the federal acquisition regulation and available 12088
at the federal web site known as the system for award 12089
management; 12090

(2) The list of excluded individuals and entities 12091
maintained by the office of inspector general in the United 12092
States department of health and human services pursuant to the 12093
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 12094
and 1320c-5; 12095

(3) The registry of ~~MR/DD~~-ID/DD employees established 12096
under section 5123.52 of the Revised Code; 12097

(4) The internet-based sex offender and child-victim 12098
offender database established under division (A)(11) of section 12099

2950.13 of the Revised Code; 12100

(5) The internet-based database of inmates established 12101
under section 5120.66 of the Revised Code; 12102

(6) The state nurse aide registry established under 12103
section 3721.32 of the Revised Code; 12104

(7) Any other database, if any, specified in rules adopted 12105
under this section. 12106

(E) (1) As a condition of employing any applicant in a 12107
position that involves providing direct care to an individual, 12108
the chief administrator of a home health agency shall request 12109
the superintendent of the bureau of criminal identification and 12110
investigation to conduct a criminal records check of the 12111
applicant. If rules adopted under this section so require, the 12112
chief administrator of a home health agency shall request the 12113
superintendent to conduct a criminal records check of an 12114
employee at times specified in the rules as a condition of 12115
continuing to employ the employee in a position that involves 12116
providing direct care to an individual. However, the chief 12117
administrator is not required to request the criminal records 12118
check of the applicant or the employee if division (F) of this 12119
section applies or the home health agency is prohibited by 12120
division (B) (1) of this section from employing the applicant or 12121
continuing to employ the employee in a position that involves 12122
providing direct care to an individual. If an applicant or 12123
employee for whom a criminal records check request is required 12124
by this section does not present proof of having been a resident 12125
of this state for the five-year period immediately prior to the 12126
date upon which the criminal records check is requested or does 12127
not provide evidence that within that five-year period the 12128
superintendent has requested information about the applicant 12129

from the federal bureau of investigation in a criminal records 12130
check, the chief administrator shall request that the 12131
superintendent obtain information from the federal bureau of 12132
investigation as a part of the criminal records check. Even if 12133
an applicant or employee for whom a criminal records check 12134
request is required by this section presents proof that the 12135
applicant or employee has been a resident of this state for that 12136
five-year period, the chief administrator may request that the 12137
superintendent include information from the federal bureau of 12138
investigation in the criminal records check. 12139

(2) The chief administrator shall do all of the following: 12140

(a) Provide to each applicant and employee for whom a 12141
criminal records check request is required by this section a 12142
copy of the form prescribed pursuant to division (C)(1) of 12143
section 109.572 of the Revised Code and a standard impression 12144
sheet prescribed pursuant to division (C)(2) of that section; 12145

(b) Obtain the completed form and standard impression 12146
sheet from each applicant and employee; 12147

(c) Forward the completed form and standard impression 12148
sheet to the superintendent at the time the chief administrator 12149
requests the criminal records check. 12150

(3) A home health agency shall pay to the bureau of 12151
criminal identification and investigation the fee prescribed 12152
pursuant to division (C)(3) of section 109.572 of the Revised 12153
Code for each criminal records check the agency requests under 12154
this section. A home health agency may charge an applicant a fee 12155
not exceeding the amount the agency pays to the bureau under 12156
this section if both of the following apply: 12157

(a) The home health agency notifies the applicant at the 12158

time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program does not reimburse the home health agency for the fee it pays to the bureau under this section.

(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply:

(1) The chief administrator of the home health agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted with regard to the applicant or employee.

(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency;

(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section.

(G) (1) A home health agency may employ conditionally an

applicant for whom a criminal records check request is required 12188
by this section before obtaining the results of the criminal 12189
records check if the agency is not prohibited by division (B) of 12190
this section from employing the applicant in a position that 12191
involves providing direct care to an individual and either of 12192
the following applies: 12193

(a) The chief administrator of the home health agency 12194
requests the criminal records check in accordance with division 12195
(E) of this section not later than five business days after the 12196
applicant begins conditional employment. 12197

(b) The applicant is referred to the home health agency by 12198
an employment service, the employment service or the applicant 12199
provides the chief administrator of the agency a letter that is 12200
on the letterhead of the employment service, the letter is dated 12201
and signed by a supervisor or another designated official of the 12202
employment service, and the letter states all of the following: 12203

(i) That the employment service has requested the 12204
superintendent to conduct a criminal records check regarding the 12205
applicant; 12206

(ii) That the requested criminal records check is to 12207
include a determination of whether the applicant has been 12208
convicted of, pleaded guilty to, or been found eligible for 12209
intervention in lieu of conviction for a disqualifying offense; 12210

(iii) That the employment service has not received the 12211
results of the criminal records check as of the date set forth 12212
on the letter; 12213

(iv) That the employment service promptly will send a copy 12214
of the results of the criminal records check to the chief 12215
administrator of the home health agency when the employment 12216

service receives the results. 12217

(2) If a home health agency employs an applicant 12218
conditionally pursuant to division (G) (1) (b) of this section, 12219
the employment service, on its receipt of the results of the 12220
criminal records check, promptly shall send a copy of the 12221
results to the chief administrator of the agency. 12222

(3) A home health agency that employs an applicant 12223
conditionally pursuant to division (G) (1) (a) or (b) of this 12224
section shall terminate the applicant's employment if the 12225
results of the criminal records check, other than the results of 12226
any request for information from the federal bureau of 12227
investigation, are not obtained within the period ending sixty 12228
days after the date the request for the criminal records check 12229
is made. Regardless of when the results of the criminal records 12230
check are obtained, if the results indicate that the applicant 12231
has been convicted of, pleaded guilty to, or been found eligible 12232
for intervention in lieu of conviction for a disqualifying 12233
offense, the home health agency shall terminate the applicant's 12234
employment unless circumstances specified in rules adopted under 12235
this section that permit the agency to employ the applicant 12236
exist and the agency chooses to employ the applicant. 12237
Termination of employment under this division shall be 12238
considered just cause for discharge for purposes of division (D) 12239
(2) of section 4141.29 of the Revised Code if the applicant 12240
makes any attempt to deceive the home health agency about the 12241
applicant's criminal record. 12242

(H) The report of any criminal records check conducted by 12243
the bureau of criminal identification and investigation in 12244
accordance with section 109.572 of the Revised Code and pursuant 12245
to a request made under this section is not a public record for 12246

the purposes of section 149.43 of the Revised Code and shall not
be made available to any person other than the following:

(1) The applicant or employee who is the subject of the
criminal records check or the applicant's or employee's
representative;

(2) The home health agency requesting the criminal records
check or its representative;

(3) The administrator of any other facility, agency, or
program that provides direct care to individuals that is owned
or operated by the same entity that owns or operates the home
health agency that requested the criminal records check;

(4) The employment service that requested the criminal
records check;

(5) The director of health and the staff of the department
of health who monitor a home health agency's compliance with
this section;

(6) The director of aging or the director's designee if
either of the following apply:

(a) In the case of a criminal records check requested by a
home health agency, the home health agency also is a community-
based long-term care provider or community-based long-term care
subcontractor;

(b) In the case of a criminal records check requested by
an employment service, the employment service makes the request
for an applicant or employee the employment service refers to a
home health agency that also is a community-based long-term care
provider or community-based long-term care subcontractor.

(7) The medicaid director and the staff of the department

of medicaid who are involved in the administration of the 12275
medicaid program if either of the following apply: 12276

(a) In the case of a criminal records check requested by a 12277
home health agency, the home health agency also is a waiver 12278
agency; 12279

(b) In the case of a criminal records check requested by 12280
an employment service, the employment service makes the request 12281
for an applicant or employee the employment service refers to a 12282
home health agency that also is a waiver agency. 12283

(8) Any court, hearing officer, or other necessary 12284
individual involved in a case dealing with any of the following: 12285

(a) A denial of employment of the applicant or employee; 12286

(b) Employment or unemployment benefits of the applicant 12287
or employee; 12288

(c) A civil or criminal action regarding the medicaid 12289
program. 12290

(I) In a tort or other civil action for damages that is 12291
brought as the result of an injury, death, or loss to person or 12292
property caused by an applicant or employee who a home health 12293
agency employs in a position that involves providing direct care 12294
to an individual, all of the following shall apply: 12295

(1) If the home health agency employed the applicant or 12296
employee in good faith and reasonable reliance on the report of 12297
a criminal records check requested under this section, the 12298
agency shall not be found negligent solely because of its 12299
reliance on the report, even if the information in the report is 12300
determined later to have been incomplete or inaccurate. 12301

(2) If the home health agency employed the applicant in 12302

good faith on a conditional basis pursuant to division (G) of 12303
this section, the agency shall not be found negligent solely 12304
because it employed the applicant prior to receiving the report 12305
of a criminal records check requested under this section. 12306

(3) If the home health agency in good faith employed the 12307
applicant or employee according to the personal character 12308
standards established in rules adopted under this section, the 12309
agency shall not be found negligent solely because the applicant 12310
or employee had been convicted of, pleaded guilty to, or been 12311
found eligible for intervention in lieu of conviction for a 12312
disqualifying offense. 12313

(J) The director of health shall adopt rules in accordance 12314
with Chapter 119. of the Revised Code to implement this section. 12315

(1) The rules may do the following: 12316

(a) Require employees to undergo database reviews and 12317
criminal records checks under this section; 12318

(b) If the rules require employees to undergo database 12319
reviews and criminal records checks under this section, exempt 12320
one or more classes of employees from the requirements; 12321

(c) For the purpose of division (D) (7) of this section, 12322
specify other databases that are to be checked as part of a 12323
database review conducted under this section. 12324

(2) The rules shall specify all of the following: 12325

(a) The procedures for conducting database reviews under 12326
this section; 12327

(b) If the rules require employees to undergo database 12328
reviews and criminal records checks under this section, the 12329
times at which the database reviews and criminal records checks 12330

are to be conducted; 12331

(c) If the rules specify other databases to be checked as 12332
part of the database reviews, the circumstances under which a 12333
home health agency is prohibited from employing an applicant or 12334
continuing to employ an employee who is found by a database 12335
review to be included in one or more of those databases; 12336

(d) Circumstances under which a home health agency may 12337
employ an applicant or employee who is found by a criminal 12338
records check required by this section to have been convicted 12339
of, pleaded guilty to, or been found eligible for intervention 12340
in lieu of conviction for a disqualifying offense but meets 12341
personal character standards. 12342

Sec. 3707.20. No person, who is suffering from a 12343
contagious or infectious disease, or who has been exposed to a 12344
contagious or infectious disease, may be sent or admitted to a 12345
prison, jail, workhouse, infirmary, children's home, state 12346
hospital or institution for the blind, the mentally ill, or the 12347
~~mentally retarded~~ intellectually disabled, or a school for the 12348
blind or deaf, or other state or county benevolent institution 12349
without first making known the facts concerning the illness or 12350
exposure to the superintendent or other person in charge 12351
thereof. When a dangerous, contagious, or infectious disease is 12352
in a jail or prison and a prisoner in the jail or prison exposed 12353
to the disease is sentenced to a state correctional institution, 12354
the prisoner shall be confined and isolated in the jail or 12355
prison or other proper place, upon the order of the proper 12356
court, for any time that is necessary to establish the fact that 12357
~~he~~ the prisoner has not contracted the disease. 12358

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 12359
and 3721.99 of the Revised Code: 12360

(1) (a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.521 of the Revised Code or division (R) (7) (d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A) (1) (b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility as defined in section 5119.34 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) A community addiction services provider as defined in section 5119.01 of the Revised Code;	12390 12391
(v) A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;	12392 12393
(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;	12394 12395 12396
(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	12397 12398 12399
(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;	12400 12401 12402
(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;	12403 12404 12405 12406 12407 12408 12409 12410
(x) A county home or district home that has never been licensed as a residential care facility.	12411 12412
(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.	12413 12414 12415 12416 12417

(3) "Mental impairment" does not mean mental illness as 12418
defined in section 5122.01 of the Revised Code or ~~mental-~~ 12419
~~retardation~~ intellectual disability as defined in section 12420
5123.01 of the Revised Code. 12421

(4) "Skilled nursing care" means procedures that require 12422
technical skills and knowledge beyond those the untrained person 12423
possesses and that are commonly employed in providing for the 12424
physical, mental, and emotional needs of the ill or otherwise 12425
incapacitated. "Skilled nursing care" includes, but is not 12426
limited to, the following: 12427

(a) Irrigations, catheterizations, application of 12428
dressings, and supervision of special diets; 12429

(b) Objective observation of changes in the patient's 12430
condition as a means of analyzing and determining the nursing 12431
care required and the need for further medical diagnosis and 12432
treatment; 12433

(c) Special procedures contributing to rehabilitation; 12434

(d) Administration of medication by any method ordered by 12435
a physician, such as hypodermically, rectally, or orally, 12436
including observation of the patient after receipt of the 12437
medication; 12438

(e) Carrying out other treatments prescribed by the 12439
physician that involve a similar level of complexity and skill 12440
in administration. 12441

(5) (a) "Personal care services" means services including, 12442
but not limited to, the following: 12443

(i) Assisting residents with activities of daily living; 12444

(ii) Assisting residents with self-administration of 12445

medication, in accordance with rules adopted under section 12446
3721.04 of the Revised Code; 12447

(iii) Preparing special diets, other than complex 12448
therapeutic diets, for residents pursuant to the instructions of 12449
a physician or a licensed dietitian, in accordance with rules 12450
adopted under section 3721.04 of the Revised Code. 12451

(b) "Personal care services" does not include "skilled 12452
nursing care" as defined in division (A) (4) of this section. A 12453
facility need not provide more than one of the services listed 12454
in division (A) (5) (a) of this section to be considered to be 12455
providing personal care services. 12456

(6) "Nursing home" means a home used for the reception and 12457
care of individuals who by reason of illness or physical or 12458
mental impairment require skilled nursing care and of 12459
individuals who require personal care services but not skilled 12460
nursing care. A nursing home is licensed to provide personal 12461
care services and skilled nursing care. 12462

(7) "Residential care facility" means a home that provides 12463
either of the following: 12464

(a) Accommodations for seventeen or more unrelated 12465
individuals and supervision and personal care services for three 12466
or more of those individuals who are dependent on the services 12467
of others by reason of age or physical or mental impairment; 12468

(b) Accommodations for three or more unrelated 12469
individuals, supervision and personal care services for at least 12470
three of those individuals who are dependent on the services of 12471
others by reason of age or physical or mental impairment, and, 12472
to at least one of those individuals, any of the skilled nursing 12473
care authorized by section 3721.011 of the Revised Code. 12474

(8) "Home for the aging" means a home that provides 12475
services as a residential care facility and a nursing home, 12476
except that the home provides its services only to individuals 12477
who are dependent on the services of others by reason of both 12478
age and physical or mental impairment. 12479

The part or unit of a home for the aging that provides 12480
services only as a residential care facility is licensed as a 12481
residential care facility. The part or unit that may provide 12482
skilled nursing care beyond the extent authorized by section 12483
3721.011 of the Revised Code is licensed as a nursing home. 12484

(9) "County home" and "district home" mean a county home 12485
or district home operated under Chapter 5155. of the Revised 12486
Code. 12487

(B) The director of health may further classify homes. For 12488
the purposes of this chapter, any residence, institution, hotel, 12489
congregate housing project, or similar facility that meets the 12490
definition of a home under this section is such a home 12491
regardless of how the facility holds itself out to the public. 12492

(C) For purposes of this chapter, personal care services 12493
or skilled nursing care shall be considered to be provided by a 12494
facility if they are provided by a person employed by or 12495
associated with the facility or by another person pursuant to an 12496
agreement to which neither the resident who receives the 12497
services nor the resident's sponsor is a party. 12498

(D) Nothing in division (A) (4) of this section shall be 12499
construed to permit skilled nursing care to be imposed on an 12500
individual who does not require skilled nursing care. 12501

Nothing in division (A) (5) of this section shall be 12502
construed to permit personal care services to be imposed on an 12503

individual who is capable of performing the activity in question 12504
without assistance. 12505

(E) Division (A) (1) (c) (ix) of this section does not 12506
prohibit a facility, infirmary, or other entity described in 12507
that division from seeking licensure under sections 3721.01 to 12508
3721.09 of the Revised Code or certification under Title XVIII 12509
or XIX of the "Social Security Act." However, such a facility, 12510
infirmary, or entity that applies for licensure or certification 12511
must meet the requirements of those sections or titles and the 12512
rules adopted under them and obtain a certificate of need from 12513
the director of health under section 3702.52 of the Revised 12514
Code. 12515

(F) Nothing in this chapter, or rules adopted pursuant to 12516
it, shall be construed as authorizing the supervision, 12517
regulation, or control of the spiritual care or treatment of 12518
residents or patients in any home who rely upon treatment by 12519
prayer or spiritual means in accordance with the creed or tenets 12520
of any recognized church or religious denomination. 12521

Sec. 3763.06. As used in this section, "incompetent 12522
person" means a person who is so mentally impaired as a result 12523
of a mental or physical illness or disability, or ~~mental~~ 12524
~~retardation~~ an intellectual disability, or as a result of 12525
chronic substance abuse, that the person is incapable of taking 12526
proper care of the person's self or property or fails to provide 12527
for the person's family or other persons for whom the person is 12528
charged by law to provide. 12529

The property, both real and personal, of a defendant 12530
against whom a judgment is rendered under sections 3763.01 to 12531
3763.08 of the Revised Code, for fines, costs, or to recover 12532
money or any other thing of value, lost or paid, shall be liable 12533

therefor without exemption, and such judgment shall be a lien 12534
thereon until paid. If the owner of the building in which the 12535
money was lost knowingly permits it to be used for gaming 12536
purposes, such building, and the real estate upon which it 12537
stands, shall be liable therefor in a like manner. The guardian 12538
or trustee of a minor or incompetent person, permitting property 12539
under the guardian's or trustee's charge to be used for gaming 12540
purposes and to become liable on account thereof, shall be 12541
liable to the guardian's or trustee's ward for such amount. 12542

Sec. 3791.031. (A) As used in this section, "place of 12543
public assembly" means: 12544

(1) Enclosed theatres, except the lobby; opera houses; 12545
auditoriums; classrooms; elevators; rooms in which persons are 12546
confined as a matter of health care, including but not limited 12547
to a hospital room and a room in a residential care facility 12548
serving as the residence of a person living in such residential 12549
care facility; 12550

(2) All buildings and other enclosed structures owned by 12551
the state, its agencies, or political subdivisions, including 12552
but not limited to hospitals and state institutions for the 12553
~~mentally retarded-intellectually disabled~~ and the mentally ill; 12554
university and college buildings, except rooms within those 12555
buildings used primarily as the residences of students or other 12556
persons affiliated with the university or college; office 12557
buildings; libraries; museums; and vehicles used in public 12558
transportation. That portion of a building or other enclosed 12559
structure that is owned by the state, a state agency, or a 12560
political subdivision and that is used primarily as a food 12561
service establishment is not a place of public assembly. 12562

(3) Each portion of a building or enclosed structure that 12563

is not included in division (A) (1) or (2) of this section is a 12564
place of public assembly if it has a seating capacity of fifty 12565
or more persons and is available to the public. Restaurants, 12566
food service establishments, dining rooms, cafes, cafeterias, or 12567
other rooms used primarily for the service of food, as well as 12568
bowling alleys and places licensed by the division of liquor 12569
control to sell intoxicating beverages for consumption on the 12570
premises, are not places of public assembly. 12571

(B) For the purpose of separating persons who smoke from 12572
persons who do not smoke for the comfort and health of persons 12573
not smoking, in every place of public assembly there shall be an 12574
area where smoking is not permitted, which shall be designated a 12575
no smoking area; provided that, no more than one-half of the 12576
rooms in any health care facility in which persons are confined 12577
as a matter of health care may be designated as smoking areas in 12578
their entirety. The designation shall be made before the place 12579
of public assembly is made available to the public. In places 12580
included in division (A) (1) of this section, the local fire 12581
authority having jurisdiction shall designate the no smoking 12582
area. In places included in division (A) (2) of this section that 12583
are owned by the state or its agencies, except the capitol 12584
square, the director of administrative services shall designate 12585
the area, and if the place is owned by a political subdivision, 12586
its legislative authority shall designate an officer who shall 12587
designate the area. The house rules committee shall designate 12588
the no smoking areas in all capitol square spaces used by the 12589
house of representatives; the senate rules committee shall 12590
designate the no smoking areas in all capitol square spaces used 12591
by the senate and the legislative service commission; the 12592
capitol square review and advisory board shall designate the no 12593
smoking areas in all other spaces in the capitol square. In 12594

places included in division (A) (3) of this section, the person 12595
having control of the operations of the place of public assembly 12596
shall designate the no smoking area. In places included in 12597
division (A) (2) of this section which are also included in 12598
division (A) (1) of this section, the officer who has authority 12599
to designate the area in places in division (A) (2) of this 12600
section shall designate the no smoking area. A no smoking area 12601
may include the entire place of public assembly. Designations 12602
shall be made by the placement of signs that are clearly visible 12603
and that state "no smoking." No person shall remove signs from 12604
areas designated as no smoking areas. 12605

(C) This section does not affect or modify the prohibition 12606
contained in division (B) of section 3313.751 of the Revised 12607
Code. 12608

(D) No person shall smoke in any area designated as a no 12609
smoking area in accordance with division (B) of this section. 12610

(E) Whoever violates this section is guilty of a minor 12611
misdemeanor. 12612

Sec. 3923.24. (A) Notwithstanding section 3901.71 of the 12613
Revised Code, every certificate furnished by an insurer in 12614
connection with, or pursuant to any provision of, any group 12615
sickness and accident insurance policy delivered, issued for 12616
delivery, renewed, or used in this state on or after January 1, 12617
1972, every policy of sickness and accident insurance delivered, 12618
issued for delivery, renewed, or used in this state on or after 12619
January 1, 1972, and every multiple employer welfare arrangement 12620
offering an insurance program, which provides that coverage of 12621
an unmarried dependent child of a parent or legal guardian will 12622
terminate upon attainment of the limiting age for dependent 12623
children specified in the contract shall also provide in 12624

substance both of the following: 12625

(1) Once an unmarried child has attained the limiting age 12626
for dependent children, as provided in the policy, upon the 12627
request of the insured, the insurer shall offer to cover the 12628
unmarried child until the child attains twenty-six years of age 12629
if all of the following are true: 12630

(a) The child is the natural child, stepchild, or adopted 12631
child of the insured. 12632

(b) The child is a resident of this state or a full-time 12633
student at an accredited public or private institution of higher 12634
education. 12635

(c) The child is not employed by an employer that offers 12636
any health benefit plan under which the child is eligible for 12637
coverage. 12638

(d) The child is not eligible for the medicaid program or 12639
the medicare program. 12640

(2) That attainment of the limiting age for dependent 12641
children shall not operate to terminate the coverage of a 12642
dependent child if the child is and continues to be both of the 12643
following: 12644

(a) Incapable of self-sustaining employment by reason of 12645
~~mental retardation~~ intellectual disability or physical handicap; 12646

(b) Primarily dependent upon the policyholder or 12647
certificate holder for support and maintenance. 12648

(B) Proof of such incapacity and dependence for purposes 12649
of division (A) (2) of this section shall be furnished by the 12650
policyholder or by the certificate holder to the insurer within 12651
thirty-one days of the child's attainment of the limiting age. 12652

Upon request, but not more frequently than annually after the 12653
two-year period following the child's attainment of the limiting 12654
age, the insurer may require proof satisfactory to it of the 12655
continuance of such incapacity and dependency. 12656

(C) Nothing in this section shall require an insurer to 12657
cover a dependent child who is ~~mentally retarded~~ intellectually 12658
disabled or physically handicapped if the contract is 12659
underwritten on evidence of insurability based on health factors 12660
set forth in the application, or if such dependent child does 12661
not satisfy the conditions of the contract as to any requirement 12662
for evidence of insurability or other provision of the contract, 12663
satisfaction of which is required for coverage thereunder to 12664
take effect. In any such case, the terms of the contract shall 12665
apply with regard to the coverage or exclusion of the dependent 12666
from such coverage. Nothing in this section shall apply to 12667
accidental death or dismemberment benefits provided by any such 12668
policy of sickness and accident insurance. 12669

(D) Nothing in this section shall do any of the following: 12670

(1) Require that any policy offer coverage for dependent 12671
children or provide coverage for an unmarried dependent child's 12672
children as dependents on the policy; 12673

(2) Require an employer to pay for any part of the premium 12674
for an unmarried dependent child that has attained the limiting 12675
age for dependents, as provided in the policy; 12676

(3) Require an employer to offer health insurance coverage 12677
to the dependents of any employee. 12678

(E) This section does not apply to any policies or 12679
certificates covering only accident, credit, dental, disability 12680
income, long-term care, hospital indemnity, medicare supplement, 12681

specified disease, or vision care; coverage under a one-time- 12682
limited-duration policy that is less than twelve months; 12683
coverage issued as a supplement to liability insurance; 12684
insurance arising out of a workers' compensation or similar law; 12685
automobile medical-payment insurance; or insurance under which 12686
benefits are payable with or without regard to fault and that is 12687
statutorily required to be contained in any liability insurance 12688
policy or equivalent self-insurance. 12689

(F) As used in this section, "health benefit plan" has the 12690
same meaning as in section 3924.01 of the Revised Code and also 12691
includes both of the following: 12692

(1) A public employee benefit plan; 12693

(2) A health benefit plan as regulated under the "Employee 12694
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 12695

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the 12696
Revised Code, any public employee benefit plan that provides 12697
that coverage of an unmarried dependent child will terminate 12698
upon attainment of the limiting age for dependent children 12699
specified in the plan shall also provide in substance both of 12700
the following: 12701

(1) Once an unmarried child has attained the limiting age 12702
for dependent children, as provided in the plan, upon the 12703
request of the employee, the public employee benefit plan shall 12704
offer to cover the unmarried child until the child attains 12705
twenty-six years of age if all of the following are true: 12706

(a) The child is the natural child, stepchild, or adopted 12707
child of the employee. 12708

(b) The child is a resident of this state or a full-time 12709
student at an accredited public or private institution of higher 12710

education. 12711

(c) The child is not employed by an employer that offers 12712
any health benefit plan under which the child is eligible for 12713
coverage. 12714

(d) The child is not eligible for the medicaid program or 12715
the medicare program. 12716

(2) That attainment of the limiting age for dependent 12717
children shall not operate to terminate the coverage of a 12718
dependent child if the child is and continues to be both of the 12719
following: 12720

(a) Incapable of self-sustaining employment by reason of 12721
~~mental retardation~~ intellectual disability or physical handicap; 12722

(b) Primarily dependent upon the plan member for support 12723
and maintenance. 12724

(B) Proof of incapacity and dependence for purposes of 12725
division (A) (2) of this section shall be furnished to the public 12726
employee benefit plan within thirty-one days of the child's 12727
attainment of the limiting age. Upon request, but not more 12728
frequently than annually, the public employee benefit plan may 12729
require proof satisfactory to it of the continuance of such 12730
incapacity and dependency. 12731

(C) Nothing in this section shall do any of the following: 12732

(1) Require that any public employee benefit plan offer 12733
coverage for dependent children or provide coverage for an 12734
unmarried dependent child's children as dependents on the public 12735
employee benefit plan; 12736

(2) Require an employer to pay for any part of the premium 12737
for an unmarried dependent child that has attained the limiting 12738

age for dependents, as provided in the plan;	12739
(3) Require an employer to offer health insurance coverage to the dependents of any employee.	12740 12741
(D) This section does not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy that is less than twelve months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.	12742 12743 12744 12745 12746 12747 12748 12749 12750 12751 12752
(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:	12753 12754 12755
(1) A public employee benefit plan;	12756
(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.	12757 12758
Sec. 4112.01. (A) As used in this chapter:	12759
(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, appraiser, agent, employee, lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of	12760 12761 12762 12763 12764 12765 12766 12767

the state. 12768

(2) "Employer" includes the state, any political 12769
subdivision of the state, any person employing four or more 12770
persons within the state, and any person acting directly or 12771
indirectly in the interest of an employer. 12772

(3) "Employee" means an individual employed by any 12773
employer but does not include any individual employed in the 12774
domestic service of any person. 12775

(4) "Labor organization" includes any organization that 12776
exists, in whole or in part, for the purpose of collective 12777
bargaining or of dealing with employers concerning grievances, 12778
terms or conditions of employment, or other mutual aid or 12779
protection in relation to employment. 12780

(5) "Employment agency" includes any person regularly 12781
undertaking, with or without compensation, to procure 12782
opportunities to work or to procure, recruit, refer, or place 12783
employees. 12784

(6) "Commission" means the Ohio civil rights commission 12785
created by section 4112.03 of the Revised Code. 12786

(7) "Discriminate" includes segregate or separate. 12787

(8) "Unlawful discriminatory practice" means any act 12788
prohibited by section 4112.02, 4112.021, or 4112.022 of the 12789
Revised Code. 12790

(9) "Place of public accommodation" means any inn, 12791
restaurant, eating house, barbershop, public conveyance by air, 12792
land, or water, theater, store, other place for the sale of 12793
merchandise, or any other place of public accommodation or 12794
amusement of which the accommodations, advantages, facilities, 12795

or privileges are available to the public. 12796

(10) "Housing accommodations" includes any building or 12797
structure, or portion of a building or structure, that is used 12798
or occupied or is intended, arranged, or designed to be used or 12799
occupied as the home residence, dwelling, dwelling unit, or 12800
sleeping place of one or more individuals, groups, or families 12801
whether or not living independently of each other; and any 12802
vacant land offered for sale or lease. "Housing accommodations" 12803
also includes any housing accommodations held or offered for 12804
sale or rent by a real estate broker, salesperson, or agent, by 12805
any other person pursuant to authorization of the owner, by the 12806
owner, or by the owner's legal representative. 12807

(11) "Restrictive covenant" means any specification 12808
limiting the transfer, rental, lease, or other use of any 12809
housing accommodations because of race, color, religion, sex, 12810
military status, familial status, national origin, disability, 12811
or ancestry, or any limitation based upon affiliation with or 12812
approval by any person, directly or indirectly, employing race, 12813
color, religion, sex, military status, familial status, national 12814
origin, disability, or ancestry as a condition of affiliation or 12815
approval. 12816

(12) "Burial lot" means any lot for the burial of deceased 12817
persons within any public burial ground or cemetery, including, 12818
but not limited to, cemeteries owned and operated by municipal 12819
corporations, townships, or companies or associations 12820
incorporated for cemetery purposes. 12821

(13) "Disability" means a physical or mental impairment 12822
that substantially limits one or more major life activities, 12823
including the functions of caring for one's self, performing 12824
manual tasks, walking, seeing, hearing, speaking, breathing, 12825

learning, and working; a record of a physical or mental 12826
impairment; or being regarded as having a physical or mental 12827
impairment. 12828

(14) Except as otherwise provided in section 4112.021 of 12829
the Revised Code, "age" means at least forty years old. 12830

(15) "Familial status" means either of the following: 12831

(a) One or more individuals who are under eighteen years 12832
of age and who are domiciled with a parent or guardian having 12833
legal custody of the individual or domiciled, with the written 12834
permission of the parent or guardian having legal custody, with 12835
a designee of the parent or guardian; 12836

(b) Any person who is pregnant or in the process of 12837
securing legal custody of any individual who is under eighteen 12838
years of age. 12839

(16) (a) Except as provided in division (A) (16) (b) of this 12840
section, "physical or mental impairment" includes any of the 12841
following: 12842

(i) Any physiological disorder or condition, cosmetic 12843
disfigurement, or anatomical loss affecting one or more of the 12844
following body systems: neurological; musculoskeletal; special 12845
sense organs; respiratory, including speech organs; 12846
cardiovascular; reproductive; digestive; genito-urinary; hemic 12847
and lymphatic; skin; and endocrine; 12848

(ii) Any mental or psychological disorder, including, but 12849
not limited to, ~~mental retardation~~ intellectual disability, 12850
organic brain syndrome, emotional or mental illness, and 12851
specific learning disabilities; 12852

(iii) Diseases and conditions, including, but not limited 12853

to, orthopedic, visual, speech, and hearing impairments, 12854
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 12855
sclerosis, cancer, heart disease, diabetes, human 12856
immunodeficiency virus infection, ~~mental retardation~~ 12857
intellectual disability, emotional illness, drug addiction, and 12858
alcoholism. 12859

(b) "Physical or mental impairment" does not include any 12860
of the following: 12861

(i) Homosexuality and bisexuality; 12862

(ii) Transvestism, transsexualism, pedophilia, 12863
exhibitionism, voyeurism, gender identity disorders not 12864
resulting from physical impairments, or other sexual behavior 12865
disorders; 12866

(iii) Compulsive gambling, kleptomania, or pyromania; 12867

(iv) Psychoactive substance use disorders resulting from 12868
the current illegal use of a controlled substance or the current 12869
use of alcoholic beverages. 12870

(17) "Dwelling unit" means a single unit of residence for 12871
a family of one or more persons. 12872

(18) "Common use areas" means rooms, spaces, or elements 12873
inside or outside a building that are made available for the use 12874
of residents of the building or their guests, and includes, but 12875
is not limited to, hallways, lounges, lobbies, laundry rooms, 12876
refuse rooms, mail rooms, recreational areas, and passageways 12877
among and between buildings. 12878

(19) "Public use areas" means interior or exterior rooms 12879
or spaces of a privately or publicly owned building that are 12880
made available to the general public. 12881

(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 12882
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(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability. 12884
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(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code. 12886
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(23) "Aggrieved person" includes both of the following: 12889

(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code; 12890
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(b) Any person who believes that the person will be injured by, any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code that is about to occur. 12893
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(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an employer to pay for health insurance benefits for abortion, except where the life of the 12897
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mother would be endangered if the fetus were carried to term or 12911
except where medical complications have arisen from the 12912
abortion, provided that nothing in this division precludes an 12913
employer from providing abortion benefits or otherwise affects 12914
bargaining agreements in regard to abortion. 12915

Sec. 4303.272. As used in this section, "incompetent 12916
person" means a person who is so mentally impaired as a result 12917
of a mental or physical illness or disability, or ~~mental~~ 12918
~~retardation~~ intellectual disability, or as a result of chronic 12919
substance abuse, that the person is incapable of taking proper 12920
care of the person's self or property or fails to provide for 12921
the person's family or other persons for whom the person is 12922
charged by law to provide. 12923

Any permit holder whose permit premises are destroyed or 12924
made unusable for any cause, or whose tenancy is terminated for 12925
any cause, shall deliver the permit holder's permit to the 12926
division of liquor control for safekeeping until such time as 12927
the original permit premises are made available for occupancy or 12928
new premises are secured by the permit holder or until new 12929
premises are secured by the permit holder outside the precinct 12930
affected by a local option election. 12931

Unless the permit is to be cancelled as the result of a 12932
local option election held pursuant to section 4301.352 of the 12933
Revised Code, a permit holder whose permit is to be restricted 12934
or cancelled as the result of a local option election pursuant 12935
to sections 4301.32 to 4301.41 and 4305.14 of the Revised Code 12936
may, within the thirty-day period after the certification of the 12937
results of the election to the division, deliver the permit to 12938
the division for safekeeping subject to the renewal and transfer 12939
provision of this section. A permit holder whose permit is to be 12940

cancelled as the result of a local option election held pursuant 12941
to section 4301.352 of the Revised Code is not entitled to 12942
deliver the permit to the division for safekeeping. 12943

If, as the result of the election, the use of a permit is 12944
made wholly unlawful and the permit holder does not deliver or 12945
is not entitled to deliver the permit to the division for 12946
safekeeping as provided in this section, the division shall 12947
forthwith cancel and pick up the permit. 12948

During the period of time that a permit is held in 12949
safekeeping by the division, the permit holder shall be allowed 12950
to transfer the permit to other premises, subject to the 12951
provisions of Chapters 4301. and 4303. of the Revised Code. 12952

If the expiration date of a permit occurs during the time 12953
it is held in safekeeping, the permit shall be renewed by the 12954
division if the permit holder complies with the other provisions 12955
of Chapters 4301. and 4303. of the Revised Code, pertaining to 12956
the renewal of a permit. The division shall issue and then 12957
retain the renewed permit until the original permit premises 12958
become available for occupancy by the permit holder or until the 12959
permit holder secures other premises. The division shall return 12960
to the permit holder a permit renewed while in safekeeping when 12961
the original permit premises are made available for occupancy or 12962
new permit premises are secured by the permit holder, if the 12963
premises meet the requirements of Chapters 4301. and 4303. of 12964
the Revised Code. 12965

A permit renewed while in safekeeping shall be considered 12966
in full force and effect and may be transferred by the division. 12967

Should the permit holder be adjudged an incompetent person 12968
or die while the permit holder's permit is in safekeeping, the 12969

permit shall be transferred, upon application, by the division 12970
to the guardian, administrator, executor, or other fiduciary of 12971
the permit holder who shall have the same rights to the 12972
transfer, return, and renewal of the permit as is provided in 12973
this section for the permit holder. 12974

A permit held in safekeeping shall not be renewed more 12975
than once while so held, unless the building from which the 12976
permit was taken for safekeeping or the building to which the 12977
permit is to be transferred is under construction or 12978
reconstruction, in which event the permit shall be held in 12979
safekeeping and shall, upon the application of the permit 12980
holder, be renewed at each expiration date until the 12981
construction or reconstruction of the building is completed. 12982

Sec. 4399.05. As used in this section, "incompetent 12983
person" means a person who is so mentally impaired as a result 12984
of a mental or physical illness or disability, or ~~mental~~ 12985
~~retardation~~ intellectual disability, or as a result of chronic 12986
substance abuse, that the person is incapable of taking proper 12987
care of the person's self or property or fails to provide for 12988
the person's family or other persons for whom the person is 12989
charged by law to provide. 12990

If a person rents or leases to another a building or 12991
premises to be used or occupied, in whole or in part, for the 12992
sale of intoxicating liquors, or permits such building or 12993
premises to be so used or occupied, such building or premises 12994
shall be liable for and may be sold to pay all fines, costs, and 12995
damages assessed against a person occupying them. Proceedings 12996
may be had to subject them to the payment of such fine and costs 12997
assessed or judgment recovered, or part remaining unpaid, either 12998
before or after execution issues against the property of the 12999

person against whom such fine and costs or judgment have been 13000
adjudged or assessed. When execution issues against the property 13001
leased or rented, the officer shall proceed to satisfy it out of 13002
the building or premises so leased or occupied. 13003

If such building or premises belong to a minor or 13004
incompetent person, the guardian having control thereof shall be 13005
liable and account to the guardian's ward for all damages on 13006
account of such use and occupation, and the liabilities for such 13007
fines, costs, and damages. 13008

Sec. 4723.071. (A) As used in this section, "health- 13009
related activities," "~~MR/DD-ID/DD~~ personnel," "prescribed 13010
medication," and "tube feeding" have the same meanings as in 13011
section 5123.41 of the Revised Code. 13012

(B) The board of nursing shall adopt rules as it considers 13013
necessary to govern nursing delegation as it applies to ~~MR/DD-~~ 13014
ID/DD personnel who administer prescribed medications, perform 13015
health-related activities, and perform tube feedings pursuant to 13016
the authority granted under section 5123.42 of the Revised Code. 13017
The board shall not establish in the rules any requirement that 13018
is inconsistent with the authority of ~~MR/DD-~~ID/DD personnel 13019
granted under that section. The rules shall be adopted in 13020
accordance with Chapter 119. of the Revised Code. 13021

(C) The board of nursing may accept complaints from any 13022
person or government entity regarding the performance or 13023
qualifications of ~~MR/DD-~~ID/DD personnel who administer 13024
prescribed medications, perform health-related activities, and 13025
perform tube feedings pursuant to the authority granted under 13026
section 5123.42 of the Revised Code. The board shall refer all 13027
complaints received to the department of developmental 13028
disabilities. The board may participate in an investigation of a 13029

complaint being conducted by the department under section 13030
5123.421 of the Revised Code. 13031

Sec. 4757.41. (A) This chapter shall not apply to the 13032
following: 13033

(1) A person certified by the state board of education 13034
under Chapter 3319. of the Revised Code while performing any 13035
services within the person's scope of employment by a board of 13036
education or by a private school meeting the standards 13037
prescribed by the state board of education under division (D) of 13038
section 3301.07 of the Revised Code or in a program operated 13039
under Chapter 5126. of the Revised Code for training individuals 13040
with ~~mental retardation~~ intellectual disabilities or other 13041
developmental disabilities; 13042

(2) Psychologists or school psychologists licensed under 13043
Chapter 4732. of the Revised Code; 13044

(3) Members of other professions licensed, certified, or 13045
registered by this state while performing services within the 13046
recognized scope, standards, and ethics of their respective 13047
professions; 13048

(4) Rabbis, priests, Christian science practitioners, 13049
clergy, or members of religious orders and other individuals 13050
participating with them in pastoral counseling when the 13051
counseling activities are within the scope of the performance of 13052
their regular or specialized ministerial duties and are 13053
performed under the auspices or sponsorship of an established 13054
and legally cognizable church, denomination, or sect or an 13055
integrated auxiliary of a church as defined in federal tax 13056
regulations, paragraph (g) (5) of 26 C.F.R. 1.6033-2 (1995), and 13057
when the individual rendering the service remains accountable to 13058

the established authority of that church, denomination, sect, or
integrated auxiliary;

(5) Any person who is not licensed under this chapter as a
licensed professional clinical counselor, licensed professional
counselor, independent social worker, or social worker and is
employed in the civil service as defined in section 124.01 of
the Revised Code while engaging in professional counseling or
social work as a civil service employee, ~~if on the effective
date of this amendment July 10, 2014,~~ the person has at least
two years of service in that capacity;

(6) A student in an accredited educational institution
while carrying out activities that are part of the student's
prescribed course of study if the activities are supervised as
required by the educational institution and if the student does
not hold herself or himself out as a person licensed or
registered under this chapter;

(7) Individuals who hold a license or certificate under
Chapter 4758. of the Revised Code who are acting within the
scope of their license or certificate as members of the
profession of chemical dependency counseling or alcohol and
other drug prevention services;

(8) Any person employed by the American red cross while
engaging in activities relating to services for military
families and veterans and disaster relief, as described in the
"American National Red Cross Act," 33 Stat. 599 (1905), 36
U.S.C.A. 1, as amended;

(9) Members of labor organizations who hold union
counselor certificates while performing services in their
official capacity as union counselors;

(10) Any person employed in a hospital as defined in 13088
section 3727.01 of the Revised Code or in a nursing home as 13089
defined in section 3721.01 of the Revised Code while providing 13090
as a hospital employee or nursing home employee, respectively, 13091
social services other than counseling and the use of 13092
psychosocial interventions and social psychotherapy; 13093

(11) A vocational rehabilitation professional who is 13094
providing rehabilitation services to individuals under section 13095
3304.17 of the Revised Code, or holds certification by the 13096
commission on rehabilitation counselor certification and is 13097
providing rehabilitation counseling services consistent with the 13098
commission's standards; 13099

(12) A caseworker not licensed under this chapter as an 13100
independent social worker or social worker who is employed by a 13101
public children services agency under section 5153.112 of the 13102
Revised Code. 13103

(B) Divisions (A) (5) and (10) of this section do not 13104
prevent a person described in those divisions from obtaining a 13105
license or certificate of registration under this chapter. 13106

(C) Except as provided in divisions (A) and (D) of this 13107
section, no employee in the service of the state, including 13108
public employees as defined by Chapter 4117. of the Revised 13109
Code, shall engage in the practice of professional counseling, 13110
social work, or marriage and family therapy without the 13111
appropriate license issued by the board. Failure to comply with 13112
this division constitutes nonfeasance under section 124.34 of 13113
the Revised Code or just cause under a collective bargaining 13114
agreement. Nothing in this division restricts the director of 13115
administrative services from developing new classifications 13116
related to this division or from reassigning affected employees 13117

to appropriate classifications based on the employee's duties 13118
and qualifications. 13119

(D) Except as provided in division (A) of this section, an 13120
employee who was engaged in the practice of professional 13121
counseling, social work, or marriage and family therapy in the 13122
service of the state prior to ~~the effective date of this~~ 13123
~~amendment July 10, 2014~~, including public employees as defined 13124
by Chapter 4117. of the Revised Code, shall comply with division 13125
(C) of this section within two years after ~~the effective date of~~ 13126
~~this amendment July 10, 2014~~. Any such employee who fails to 13127
comply shall be removed from employment. 13128

(E) Nothing in this chapter prevents a public children 13129
services agency from employing as a caseworker a person not 13130
licensed under this chapter as an independent social worker or 13131
social worker who has the qualifications specified in section 13132
5153.112 of the Revised Code. 13133

Sec. 4971.16. As used in this section, "incompetent 13134
person" means a person who is so mentally impaired as a result 13135
of a mental or physical illness or disability, or ~~mental~~ 13136
~~retardation~~ intellectual disability, or as a result of chronic 13137
substance abuse, that the person is incapable of taking proper 13138
care of the person's self or property or fails to provide for 13139
the person's family or other persons for whom the person is 13140
charged by law to provide. 13141

Persons in interest who fail to become parties to the 13142
agreement within the four-month period referred to in section 13143
4971.14 of the Revised Code are entitled to the same rights, 13144
interest, estate, remedy, liens, and action, and none other, 13145
which parties in interest of like class and amount who signed 13146
the agreement obtained by and under it. If a person in interest 13147

fails for six years after the publication of the notice 13148
mentioned in such section to apply at the principal office of 13149
the company, either in person or by proxy, to become a party in 13150
interest in the agreement, such person, unless an infant or 13151
incompetent person, shall be barred of all interest, claim, 13152
right, or action under the agreement or otherwise. In case of 13153
such disability such rights shall be extended for two years 13154
after the termination of the disability. 13155

Sec. 5101.46. (A) As used in this section: 13156

(1) "Title XX" means Title XX of the "Social Security 13157
Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 13158

(2) "Respective local agency" means, with respect to the 13159
department of job and family services, a county department of 13160
job and family services; with respect to the department of 13161
mental health and addiction services, a board of alcohol, drug 13162
addiction, and mental health services; and with respect to the 13163
department of developmental disabilities, a county board of 13164
developmental disabilities. 13165

(3) "Federal poverty guidelines" means the poverty 13166
guidelines as revised annually by the United States department 13167
of health and human services in accordance with section 673(2) 13168
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 13169
511, 42 U.S.C.A. 9902, as amended, for a family size equal to 13170
the size of the family of the person whose income is being 13171
determined. 13172

(B) The departments of job and family services, mental 13173
health, and developmental disabilities, with their respective 13174
local agencies, shall administer the provision of social 13175
services funded through grants made under Title XX. The social 13176

services furnished with Title XX funds shall be directed at the 13177
following goals: 13178

(1) Achieving or maintaining economic self-support to 13179
prevent, reduce, or eliminate dependency; 13180

(2) Achieving or maintaining self-sufficiency, including 13181
reduction or prevention of dependency; 13182

(3) Preventing or remedying neglect, abuse, or 13183
exploitation of children and adults unable to protect their own 13184
interests, or preserving, rehabilitating, or reuniting families; 13185

(4) Preventing or reducing inappropriate institutional 13186
care by providing for community-based care, home-based care, or 13187
other forms of less intensive care; 13188

(5) Securing referral or admission for institutional care 13189
when other forms of care are not appropriate, or providing 13190
services to individuals in institutions. 13191

(C) (1) All federal funds received under Title XX shall be 13192
appropriated as follows: 13193

(a) Seventy-two and one-half per cent to the department of 13194
job and family services; 13195

(b) Twelve and ninety-three one-hundredths per cent to the 13196
department of mental health and addiction services; 13197

(c) Fourteen and fifty-seven one-hundredths per cent to 13198
the department of developmental disabilities. 13199

(2) Each of the state departments shall, subject to the 13200
approval of the controlling board, develop a formula for the 13201
distribution of the Title XX funds appropriated to the 13202
department to its respective local agencies. The formula 13203

developed by each state department shall take into account all 13204
of the following for each of its respective local agencies: 13205

(a) The total population of the area that is served by the 13206
respective local agency; 13207

(b) The percentage of the population in the area served 13208
that falls below the federal poverty guidelines; 13209

(c) The respective local agency's history of and ability 13210
to utilize Title XX funds. 13211

(3) Each of the state departments shall expend for state 13212
administrative costs not more than three per cent of the Title 13213
XX funds appropriated to the department. 13214

Each state department shall establish for each of its 13215
respective local agencies the maximum percentage of the Title XX 13216
funds distributed to the respective local agency that the 13217
respective local agency may expend for local administrative 13218
costs. The percentage shall be established by rule and shall 13219
comply with federal law governing the use of Title XX funds. The 13220
rules shall be adopted in accordance with section 111.15 of the 13221
Revised Code as if they were internal management rules. 13222

(4) The department of job and family services shall expend 13223
for the training of the following not more than two per cent of 13224
the Title XX funds appropriated to the department: 13225

(a) Employees of county departments of job and family 13226
services; 13227

(b) Providers of services under contract with the state 13228
departments' respective local agencies; 13229

(c) Employees of a public children services agency 13230
directly engaged in providing Title XX services. 13231

(5) Title XX funds distributed for the purpose of 13232
providing family planning services shall be distributed by the 13233
respective local agencies according to the same order of 13234
priority that applies to the department of job and family 13235
services under section 5101.101 of the Revised Code. 13236

(D) The department of job and family services shall 13237
prepare an annual comprehensive Title XX social services plan on 13238
the intended use of Title XX funds. The department shall develop 13239
a method for obtaining public comment during the development of 13240
the plan and following its completion. 13241

For each federal fiscal year, the department of job and 13242
family services shall prepare a report on the actual use of 13243
Title XX funds. The department shall make the annual report 13244
available for public inspection. 13245

The departments of mental health and addiction services 13246
and developmental disabilities shall prepare and submit to the 13247
department of job and family services the portions of each 13248
annual plan and report that apply to services for mental health 13249
and ~~mental retardation~~ intellectual disabilities and 13250
developmental disabilities. Each respective local agency of the 13251
three state departments shall submit information as necessary 13252
for the preparation of annual plans and reports. 13253

(E) Each county department of job and family services 13254
shall adopt a county profile for the administration and 13255
provision of Title XX social services in the county. In 13256
developing its county profile, the county department shall take 13257
into consideration the comments and recommendations received 13258
from the public by the county family services planning committee 13259
pursuant to section 329.06 of the Revised Code. As part of its 13260
preparation of the county profile, the county department may 13261

prepare a local needs report analyzing the need for Title XX social services. 13262
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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 department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section. 13264
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(F) 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. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted. 13272
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If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider. 13280
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(G) Except with respect to the matters for which each of the state departments must adopt rules under division (C) (3) of 13290
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this section, the department of job and family services may 13292
adopt any rules it considers necessary to implement and carry 13293
out the purposes of this section. Rules governing financial and 13294
operational matters of the department or matters between the 13295
department and county departments of job and family services 13296
shall be adopted as internal management rules in accordance with 13297
section 111.15 of the Revised Code. Rules governing eligibility 13298
for services, program participation, and other matters 13299
pertaining to applicants and participants shall be adopted in 13300
accordance with Chapter 119. of the Revised Code. 13301

Sec. 5101.611. If a county department of job and family 13302
services knows or has reasonable cause to believe that the 13303
subject of a report made under section 5101.61 or of an 13304
investigation conducted under sections 5101.62 to 5101.64 or on 13305
the initiative of the department is ~~mentally retarded~~ 13306
intellectually disabled or developmentally disabled as defined 13307
in section 5126.01 of the Revised Code, the department shall 13308
refer the case to the county board of developmental disabilities 13309
of that county for review pursuant to section 5126.31 of the 13310
Revised Code. 13311

If a county board of developmental disabilities refers a 13312
case to the county department of job and family services in 13313
accordance with section 5126.31, the department shall proceed 13314
with the case in accordance with sections 5101.60 to 5101.71 of 13315
the Revised Code. 13316

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of 13317
the Revised Code: 13318

(A) (1) "Association" or "institution" includes all of the 13319
following: 13320

(a) Any incorporated or unincorporated organization, 13321
society, association, or agency, public or private, that 13322
receives or cares for children for two or more consecutive 13323
weeks; 13324

(b) Any individual, including the operator of a foster 13325
home, who, for hire, gain, or reward, receives or cares for 13326
children for two or more consecutive weeks, unless the 13327
individual is related to them by blood or marriage; 13328

(c) Any individual not in the regular employ of a court, 13329
or of an institution or association certified in accordance with 13330
section 5103.03 of the Revised Code, who in any manner becomes a 13331
party to the placing of children in foster homes, unless the 13332
individual is related to such children by blood or marriage or 13333
is the appointed guardian of such children. 13334

(2) "Association" or "institution" does not include any of 13335
the following: 13336

(a) Any organization, society, association, school, 13337
agency, child guidance center, detention or rehabilitation 13338
facility, or children's clinic licensed, regulated, approved, 13339
operated under the direction of, or otherwise certified by the 13340
department of education, a local board of education, the 13341
department of youth services, the department of mental health 13342
and addiction services, or the department of developmental 13343
disabilities; 13344

(b) Any individual who provides care for only a single- 13345
family group, placed there by their parents or other relative 13346
having custody. 13347

(B) "Family foster home" means a foster home that is not a 13348
specialized foster home. 13349

(C) "Foster caregiver" means a person holding a valid foster home certificate issued under section 5103.03 of the Revised Code.

(D) "Foster home" means a private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children nonsecure care, supervision, or training twenty-four hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. Family foster homes and specialized foster homes are types of foster homes.

(E) "Medically fragile foster home" means a foster home that provides specialized medical services designed to meet the needs of children with intensive health care needs who meet all of the following criteria:

(1) Under rules adopted by the medicaid director governing medicaid payments for long-term care services, the children require a skilled level of care.

(2) The children require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions.

(3) The children require the services of a registered nurse on a daily basis.

(4) The children are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities.

(F) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial

agency that recommends that the department of job and family 13379
services take any of the following actions under section 5103.03 13380
of the Revised Code regarding a foster home: 13381

(1) Issue a certificate; 13382

(2) Deny a certificate; 13383

(3) Renew a certificate; 13384

(4) Deny renewal of a certificate; 13385

(5) Revoke a certificate. 13386

(G) "Specialized foster home" means a medically fragile 13387
foster home or a treatment foster home. 13388

(H) "Treatment foster home" means a foster home that 13389
incorporates special rehabilitative services designed to treat 13390
the specific needs of the children received in the foster home 13391
and that receives and cares for children who are emotionally or 13392
behaviorally disturbed, chemically dependent, ~~mentally retarded~~ 13393
intellectually disabled, developmentally disabled, or who 13394
otherwise have exceptional needs. 13395

Sec. 5119.44. As used in this section, "free clinic" has 13396
the same meaning as in section 2305.2341 of the Revised Code. 13397

(A) The department of mental health and addiction services 13398
may provide certain goods and services for the department of 13399
mental health and addiction services, the department of 13400
developmental disabilities, the department of rehabilitation and 13401
correction, the department of youth services, and other state, 13402
county, or municipal agencies requesting such goods and services 13403
when the department of mental health and addiction services 13404
determines that it is in the public interest, and considers it 13405
advisable, to provide these goods and services. The department 13406

of mental health and addiction services also may provide goods 13407
and services to agencies operated by the United States 13408
government and to public or private nonprofit agencies, other 13409
than free clinics, that are funded in whole or in part by the 13410
state if the public or private nonprofit agencies are designated 13411
for participation in this program by the director of mental 13412
health and addiction services for community addiction services 13413
providers and community mental health services providers, the 13414
director of developmental disabilities for community ~~mental-~~ 13415
~~retardation-~~intellectual disabilities and developmental 13416
disabilities agencies, the director of rehabilitation and 13417
correction for community rehabilitation and correction agencies, 13418
or the director of youth services for community youth services 13419
agencies. 13420

Designated community agencies or services providers shall 13421
receive goods and services through the department of mental 13422
health and addiction services only in those cases where the 13423
designating state agency certifies that providing such goods and 13424
services to the agency or services provider will conserve public 13425
resources to the benefit of the public and where the provision 13426
of such goods and services is considered feasible by the 13427
department of mental health and addiction services. 13428

(B) The department of mental health and addiction services 13429
may permit free clinics to purchase certain goods and services 13430
to the extent the purchases fall within the exemption to the 13431
Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to 13432
nonprofit institutions, in 15 U.S.C. 13c, as amended. 13433

(C) The goods and services that may be provided by the 13434
department of mental health and addiction services under 13435
divisions (A) and (B) of this section may include: 13436

(1) Procurement, storage, processing, and distribution of food and professional consultation on food operations;	13437 13438
(2) Procurement, storage, and distribution of medical and laboratory supplies, dental supplies, medical records, forms, optical supplies, and sundries, subject to section 5120.135 of the Revised Code;	13439 13440 13441 13442
(3) Procurement, storage, repackaging, distribution, and dispensing of drugs, the provision of professional pharmacy consultation, and drug information services;	13443 13444 13445
(4) Other goods and services.	13446
(D) The department of mental health and addiction services may provide the goods and services designated in division (C) of this section to its institutions and to state-operated community-based mental health or addiction services providers.	13447 13448 13449 13450
(E) After consultation with and advice from the director of developmental disabilities, the director of rehabilitation and correction, and the director of youth services, the department of mental health and addiction services may provide the goods and services designated in division (C) of this section to the department of developmental disabilities, the department of rehabilitation and correction, and the department of youth services.	13451 13452 13453 13454 13455 13456 13457 13458
(F) The cost of administration of this section shall be determined by the department of mental health and addiction services and paid by the agencies, services providers, or free clinics receiving the goods and services to the department for deposit in the state treasury to the credit of the office of support services fund, which is hereby created. The fund shall be used to pay the cost of administration of this section to the	13459 13460 13461 13462 13463 13464 13465

department. 13466

(G) Whenever a state agency fails to make a payment for 13467
goods and services provided under this section within thirty-one 13468
days after the date the payment was due, the office of budget 13469
and management may transfer moneys from the state agency to the 13470
department of mental health and addiction services. The amount 13471
transferred shall not exceed the amount of overdue payments. 13472
Prior to making a transfer under this division, the office of 13473
budget and management shall apply any credits the state agency 13474
has accumulated in payments for goods and services provided 13475
under this section. 13476

(H) Purchases of goods and services under this section are 13477
not subject to section 307.86 of the Revised Code. 13478

Sec. 5120.051. The department of rehabilitation and 13479
correction shall provide for the needs of mentally ill and 13480
~~mentally retarded~~ intellectually disabled persons who are 13481
incarcerated in state correctional institutions. The department 13482
may designate an institution or a unit within an institution for 13483
the custody, care, special training, treatment, and 13484
rehabilitation of mentally ill or ~~mentally retarded~~ 13485
intellectually disabled persons. 13486

Sec. 5120.11. Within the department of rehabilitation and 13487
correction, there shall be established and maintained a bureau 13488
of examination and classification. The bureau shall conduct or 13489
provide for sociological, psychological, and psychiatric 13490
examination of each inmate of the correctional institutions. The 13491
examination shall be made as soon as possible after each inmate 13492
is admitted to any of the institutions, and further examinations 13493
may be made, if it is advisable. If the inmate is determined to 13494
be a ~~mentally retarded or developmentally disabled person~~ with 13495

an intellectual or developmental disability, as defined in 13496
section 5123.01 of the Revised Code, the bureau shall notify the 13497
sentencing court in writing of its determination within forty- 13498
five days after sentencing. 13499

The bureau shall collect such social and other information 13500
as will aid in the interpretation of its examinations. 13501

Subject to division (C) of section 5120.21 of the Revised 13502
Code, the bureau shall keep a record of the health, activities, 13503
and behavior of each inmate while the inmate is in the custody 13504
of the state. The records, including the findings and 13505
recommendations of the bureau, shall be made available to the 13506
adult parole authority for use in imposing post-release control 13507
sanctions under section 2967.28 of the Revised Code or any other 13508
section of the Revised Code, in granting parole, and in making 13509
parole, post-release, and rehabilitation plans for the inmate 13510
when the inmate leaves the institution, and to the department 13511
for its use in approving transfers of inmates from one 13512
institution to another. 13513

Sec. 5120.17. (A) As used in this section: 13514

(1) "Mental illness" means a substantial disorder of 13515
thought, mood, perception, orientation, or memory that grossly 13516
impairs judgment, behavior, capacity to recognize reality, or 13517
ability to meet the ordinary demands of life. 13518

(2) "Mentally ill person subject to hospitalization" means 13519
a mentally ill person to whom any of the following applies 13520
because of the person's mental illness: 13521

(a) The person represents a substantial risk of physical 13522
harm to the person as manifested by evidence of threats of, or 13523
attempts at, suicide or serious self-inflicted bodily harm. 13524

(b) The person represents a substantial risk of physical 13525
harm to others as manifested by evidence of recent homicidal or 13526
other violent behavior, evidence of recent threats that place 13527
another in reasonable fear of violent behavior and serious 13528
physical harm, or other evidence of present dangerousness. 13529

(c) The person represents a substantial and immediate risk 13530
of serious physical impairment or injury to the person as 13531
manifested by evidence that the person is unable to provide for 13532
and is not providing for the person's basic physical needs 13533
because of the person's mental illness and that appropriate 13534
provision for those needs cannot be made immediately available 13535
in the correctional institution in which the inmate is currently 13536
housed. 13537

(d) The person would benefit from treatment in a hospital 13538
for the person's mental illness and is in need of treatment in a 13539
hospital as manifested by evidence of behavior that creates a 13540
grave and imminent risk to substantial rights of others or the 13541
person. 13542

(3) "Psychiatric hospital" means all or part of a facility 13543
that is operated and managed by the department of mental health 13544
and addiction services to provide psychiatric hospitalization 13545
services in accordance with the requirements of this section 13546
pursuant to an agreement between the directors of rehabilitation 13547
and correction and mental health and addiction services or, is 13548
licensed by the department of mental health and addiction 13549
services pursuant to section 5119.33 of the Revised Code as a 13550
psychiatric hospital and is accredited by a health care 13551
accrediting organization approved by the department of mental 13552
health and addiction services and the psychiatric hospital is 13553
any of the following: 13554

- (a) Operated and managed by the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;
- (b) Operated and managed by a contractor for the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;
- (c) Operated and managed in the community by an entity that has contracted with the department of rehabilitation and correction to provide psychiatric hospitalization services in accordance with the requirements of this section.
- (4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.
- (5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.
- (6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:
- (a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;
- (b) The services to be provided to the inmate patient during the inmate patient's hospitalization;
- (c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited

to, housing and mental health services provided at the state 13583
correctional institution to which the inmate patient returns 13584
after discharge or community mental health services. 13585

(7) "~~Mentally retarded person~~ Person with an intellectual 13586
disability subject to institutionalization by court order" has 13587
the same meaning as in section 5123.01 of the Revised Code. 13588

(8) "Emergency transfer" means the transfer of a mentally 13589
ill inmate to a psychiatric hospital when the inmate presents an 13590
immediate danger to self or others and requires hospital-level 13591
care. 13592

(9) "Uncontested transfer" means the transfer of a 13593
mentally ill inmate to a psychiatric hospital when the inmate 13594
has the mental capacity to, and has waived, the hearing required 13595
by division (B) of this section. 13596

(10) (a) "Independent decision-maker" means a person who is 13597
employed or retained by the department of rehabilitation and 13598
correction and is appointed by the chief or chief clinical 13599
officer of mental health services as a hospitalization hearing 13600
officer to conduct due process hearings. 13601

(b) An independent decision-maker who presides over any 13602
hearing or issues any order pursuant to this section shall be a 13603
psychiatrist, psychologist, or attorney, shall not be 13604
specifically associated with the institution in which the inmate 13605
who is the subject of the hearing or order resides at the time 13606
of the hearing or order, and previously shall not have had any 13607
treatment relationship with nor have represented in any legal 13608
proceeding the inmate who is the subject of the order. 13609

(B) (1) Except as provided in division (C) of this section, 13610
if the warden of a state correctional institution or the 13611

warden's designee believes that an inmate should be transferred 13612
from the institution to a psychiatric hospital, the department 13613
shall hold a hearing to determine whether the inmate is a 13614
mentally ill person subject to hospitalization. The department 13615
shall conduct the hearing at the state correctional institution 13616
in which the inmate is confined, and the department shall 13617
provide qualified independent assistance to the inmate for the 13618
hearing. An independent decision-maker provided by the 13619
department shall preside at the hearing and determine whether 13620
the inmate is a mentally ill person subject to hospitalization. 13621

(2) Except as provided in division (C) of this section, 13622
prior to the hearing held pursuant to division (B) (1) of this 13623
section, the warden or the warden's designee shall give written 13624
notice to the inmate that the department is considering 13625
transferring the inmate to a psychiatric hospital, that it will 13626
hold a hearing on the proposed transfer at which the inmate may 13627
be present, that at the hearing the inmate has the rights 13628
described in division (B) (3) of this section, and that the 13629
department will provide qualified independent assistance to the 13630
inmate with respect to the hearing. The department shall not 13631
hold the hearing until the inmate has received written notice of 13632
the proposed transfer and has had sufficient time to consult 13633
with the person appointed by the department to provide 13634
assistance to the inmate and to prepare for a presentation at 13635
the hearing. 13636

(3) At the hearing held pursuant to division (B) (1) of 13637
this section, the department shall disclose to the inmate the 13638
evidence that it relies upon for the transfer and shall give the 13639
inmate an opportunity to be heard. Unless the independent 13640
decision-maker finds good cause for not permitting it, the 13641
inmate may present documentary evidence and the testimony of 13642

witnesses at the hearing and may confront and cross-examine 13643
witnesses called by the department. 13644

(4) If the independent decision-maker does not find clear 13645
and convincing evidence that the inmate is a mentally ill person 13646
subject to hospitalization, the department shall not transfer 13647
the inmate to a psychiatric hospital but shall continue to 13648
confine the inmate in the same state correctional institution or 13649
in another state correctional institution that the department 13650
considers appropriate. If the independent decision-maker finds 13651
clear and convincing evidence that the inmate is a mentally ill 13652
person subject to hospitalization, the decision-maker shall 13653
order that the inmate be transported to a psychiatric hospital 13654
for observation and treatment for a period of not longer than 13655
thirty days. After the hearing, the independent decision-maker 13656
shall submit to the department a written decision that states 13657
one of the findings described in division (B) (4) of this 13658
section, the evidence that the decision-maker relied on in 13659
reaching that conclusion, and, if the decision is that the 13660
inmate should be transferred, the reasons for the transfer. 13661

(C) (1) The department may transfer an inmate to a 13662
psychiatric hospital under an emergency transfer order if the 13663
chief clinical officer of mental health services of the 13664
department or that officer's designee and either a psychiatrist 13665
employed or retained by the department or, in the absence of a 13666
psychiatrist, a psychologist employed or retained by the 13667
department determines that the inmate is mentally ill, presents 13668
an immediate danger to self or others, and requires hospital- 13669
level care. 13670

(2) The department may transfer an inmate to a psychiatric 13671
hospital under an uncontested transfer order if both of the 13672

following apply: 13673

(a) A psychiatrist employed or retained by the department 13674
determines all of the following apply: 13675

(i) The inmate has a mental illness or is a mentally ill 13676
person subject to hospitalization. 13677

(ii) The inmate requires hospital care to address the 13678
mental illness. 13679

(iii) The inmate has the mental capacity to make a 13680
reasoned choice regarding the inmate's transfer to a hospital. 13681

(b) The inmate agrees to a transfer to a hospital. 13682

(3) The written notice and the hearing required under 13683
divisions (B) (1) and (2) of this section are not required for an 13684
emergency transfer or uncontested transfer under division (C) (1) 13685
or (2) of this section. 13686

(4) After an emergency transfer under division (C) (1) of 13687
this section, the department shall hold a hearing for continued 13688
hospitalization within five working days after admission of the 13689
transferred inmate to the psychiatric hospital. The department 13690
shall hold subsequent hearings pursuant to division (F) of this 13691
section at the same intervals as required for inmate patients 13692
who are transported to a psychiatric hospital under division (B) 13693
(4) of this section. 13694

(5) After an uncontested transfer under division (C) (2) of 13695
this section, the inmate may withdraw consent to the transfer in 13696
writing at any time. Upon the inmate's withdrawal of consent, 13697
the hospital shall discharge the inmate, or, within five working 13698
days, the department shall hold a hearing for continued 13699
hospitalization. The department shall hold subsequent hearings 13700

pursuant to division (F) of this section at the same time 13701
intervals as required for inmate patients who are transported to 13702
a psychiatric hospital under division (B) (4) of this section. 13703

(D) (1) If an independent decision-maker, pursuant to 13704
division (B) (4) of this section, orders an inmate transported to 13705
a psychiatric hospital or if an inmate is transferred pursuant 13706
to division (C) (1) or (2) of this section, the staff of the 13707
psychiatric hospital shall examine the inmate patient when 13708
admitted to the psychiatric hospital as soon as practicable 13709
after the inmate patient arrives at the hospital and no later 13710
than twenty-four hours after the time of arrival. The attending 13711
physician responsible for the inmate patient's care shall give 13712
the inmate patient all information necessary to enable the 13713
patient to give a fully informed, intelligent, and knowing 13714
consent to the treatment the inmate patient will receive in the 13715
hospital. The attending physician shall tell the inmate patient 13716
the expected physical and medical consequences of any proposed 13717
treatment and shall give the inmate patient the opportunity to 13718
consult with another psychiatrist at the hospital and with the 13719
inmate advisor. 13720

(2) No inmate patient who is transported or transferred 13721
pursuant to division (B) (4) or (C) (1) or (2) of this section to 13722
a psychiatric hospital within a facility that is operated by the 13723
department of rehabilitation and correction shall be subjected 13724
to any of the following procedures: 13725

(a) Convulsive therapy; 13726

(b) Major aversive interventions; 13727

(c) Any unusually hazardous treatment procedures; 13728

(d) Psychosurgery. 13729

(E) The department of rehabilitation and correction shall ensure that an inmate patient hospitalized pursuant to this section receives or has all of the following:	13730 13731 13732
(1) Receives sufficient professional care within twenty days of admission to ensure that an evaluation of the inmate patient's current status, differential diagnosis, probable prognosis, and description of the current treatment plan have been formulated and are stated on the inmate patient's official chart;	13733 13734 13735 13736 13737 13738
(2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment;	13739 13740
(3) Receives treatment consistent with the treatment plan;	13741
(4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;	13742 13743 13744
(5) Is provided with adequate medical treatment for physical disease or injury;	13745 13746
(6) Receives humane care and treatment, including, without being limited to, the following:	13747 13748
(a) Access to the facilities and personnel required by the treatment plan;	13749 13750
(b) A humane psychological and physical environment;	13751
(c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand;	13752 13753 13754 13755 13756

(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital;

(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation;

(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department.

(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B) (4) or (C) (1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B) (4) or (C) (1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C) (2) of this section and who has scheduled hearings after withdrawal of consent for

hospitalization may waive any of the scheduled hearings if the 13787
inmate has the capacity to make a reasoned choice and executes a 13788
written waiver of the hearing. 13789

If upon completion of the hearing the independent 13790
decision-maker does not find by clear and convincing evidence 13791
that the inmate patient is a mentally ill person subject to 13792
hospitalization, the independent decision-maker shall order the 13793
inmate patient's discharge from the psychiatric hospital. If the 13794
independent decision-maker finds by clear and convincing 13795
evidence that the inmate patient is a mentally ill person 13796
subject to hospitalization, the independent decision-maker shall 13797
order that the inmate patient remain at the psychiatric hospital 13798
for continued hospitalization until the next required hearing. 13799

If at any time prior to the next required hearing for 13800
continued hospitalization, the medical director of the hospital 13801
or the attending physician determines that the treatment needs 13802
of the inmate patient could be met equally well in an available 13803
and appropriate less restrictive state correctional institution 13804
or unit, the medical director or attending physician may 13805
discharge the inmate to that facility. 13806

(G) An inmate patient is entitled to the credits toward 13807
the reduction of the inmate patient's stated prison term 13808
pursuant to Chapters 2967. and 5120. of the Revised Code under 13809
the same terms and conditions as if the inmate patient were in 13810
any other institution of the department of rehabilitation and 13811
correction. 13812

(H) The adult parole authority may place an inmate patient 13813
on parole or under post-release control directly from a 13814
psychiatric hospital. 13815

(I) If an inmate patient who is a mentally ill person 13816
subject to hospitalization is to be released from a psychiatric 13817
hospital because of the expiration of the inmate patient's 13818
stated prison term, the director of rehabilitation and 13819
correction or the director's designee, at least fourteen days 13820
before the expiration date, may file an affidavit under section 13821
5122.11 or 5123.71 of the Revised Code with the probate court in 13822
the county where the psychiatric hospital is located or the 13823
probate court in the county where the inmate will reside, 13824
alleging that the inmate patient is a mentally ill person 13825
subject to court order or a ~~mentally retarded~~ person with an 13826
intellectual disability subject to institutionalization by court 13827
order, whichever is applicable. The proceedings in the probate 13828
court shall be conducted pursuant to Chapter 5122. or 5123. of 13829
the Revised Code except as modified by this division. 13830

Upon the request of the inmate patient, the probate court 13831
shall grant the inmate patient an initial hearing under section 13832
5122.141 of the Revised Code or a probable cause hearing under 13833
section 5123.75 of the Revised Code before the expiration of the 13834
stated prison term. After holding a full hearing, the probate 13835
court shall make a disposition authorized by section 5122.15 or 13836
5123.76 of the Revised Code before the date of the expiration of 13837
the stated prison term. No inmate patient shall be held in the 13838
custody of the department of rehabilitation and correction past 13839
the date of the expiration of the inmate patient's stated prison 13840
term. 13841

(J) The department of rehabilitation and correction shall 13842
set standards for treatment provided to inmate patients. 13843

(K) A certificate, application, record, or report that is 13844
made in compliance with this section and that directly or 13845

indirectly identifies an inmate or former inmate whose 13846
hospitalization has been sought under this section is 13847
confidential. No person shall disclose the contents of any 13848
certificate, application, record, or report of that nature or 13849
any other psychiatric or medical record or report regarding a 13850
mentally ill inmate unless one of the following applies: 13851

(1) The person identified, or the person's legal guardian, 13852
if any, consents to disclosure, and the chief clinical officer 13853
or designee of mental health services of the department of 13854
rehabilitation and correction determines that disclosure is in 13855
the best interests of the person. 13856

(2) Disclosure is required by a court order signed by a 13857
judge. 13858

(3) An inmate patient seeks access to the inmate patient's 13859
own psychiatric and medical records, unless access is 13860
specifically restricted in the treatment plan for clear 13861
treatment reasons. 13862

(4) Hospitals and other institutions and facilities within 13863
the department of rehabilitation and correction may exchange 13864
psychiatric records and other pertinent information with other 13865
hospitals, institutions, and facilities of the department, but 13866
the information that may be released about an inmate patient is 13867
limited to medication history, physical health status and 13868
history, summary of course of treatment in the hospital, summary 13869
of treatment needs, and a discharge summary, if any. 13870

(5) An inmate patient's family member who is involved in 13871
planning, providing, and monitoring services to the inmate 13872
patient may receive medication information, a summary of the 13873
inmate patient's diagnosis and prognosis, and a list of the 13874

services and personnel available to assist the inmate patient 13875
and family if the attending physician determines that disclosure 13876
would be in the best interest of the inmate patient. No 13877
disclosure shall be made under this division unless the inmate 13878
patient is notified of the possible disclosure, receives the 13879
information to be disclosed, and does not object to the 13880
disclosure. 13881

(6) The department of rehabilitation and correction may 13882
exchange psychiatric hospitalization records, other mental 13883
health treatment records, and other pertinent information with 13884
county sheriffs' offices, hospitals, institutions, and 13885
facilities of the department of mental health and addiction 13886
services and with community mental health services providers and 13887
boards of alcohol, drug addiction, and mental health services 13888
with which the department of mental health and addiction 13889
services has a current agreement for patient care or services to 13890
ensure continuity of care. Disclosure under this division is 13891
limited to records regarding a mentally ill inmate's medication 13892
history, physical health status and history, summary of course 13893
of treatment, summary of treatment needs, and a discharge 13894
summary, if any. No office, department, agency, provider, or 13895
board shall disclose the records and other information unless 13896
one of the following applies: 13897

(a) The mentally ill inmate is notified of the possible 13898
disclosure and consents to the disclosure. 13899

(b) The mentally ill inmate is notified of the possible 13900
disclosure, an attempt to gain the consent of the inmate is 13901
made, and the office, department, agency, or board documents the 13902
attempt to gain consent, the inmate's objections, if any, and 13903
the reasons for disclosure in spite of the inmate's objections. 13904

(7) Information may be disclosed to staff members 13905
designated by the director of rehabilitation and correction for 13906
the purpose of evaluating the quality, effectiveness, and 13907
efficiency of services and determining if the services meet 13908
minimum standards. 13909

The name of an inmate patient shall not be retained with 13910
the information obtained during the evaluations. 13911

(L) The director of rehabilitation and correction may 13912
adopt rules setting forth guidelines for the procedures required 13913
under divisions (B), (C) (1), and (C) (2) of this section. 13914

Sec. 5120.173. Any person who is required to report abuse 13915
or neglect of a child under eighteen years of age that is 13916
reasonably suspected or believed to have occurred or the threat 13917
of which is reasonably suspected or believed to exist pursuant 13918
to division (A) of section 2151.421 of the Revised Code, any 13919
person who is permitted to report or cause a report to be made 13920
of reasonably suspected abuse or neglect of a child under 13921
eighteen years of age pursuant to division (B) of that section, 13922
any person who is required to report suspected abuse or neglect 13923
of a person with ~~mental retardation~~ an intellectual or ~~a~~ 13924
developmental disability pursuant to division (C) of section 13925
5123.61 of the Revised Code, and any person who is permitted to 13926
report suspected abuse or neglect of a person with ~~mental~~ 13927
~~retardation~~ an intellectual or ~~a~~ developmental disability 13928
pursuant to division (F) of that section and who makes or causes 13929
the report to be made, shall direct that report to the state 13930
highway patrol if the child or the person with ~~mental~~ 13931
~~retardation~~ an intellectual or ~~a~~ developmental disability is an 13932
inmate in the custody of a state correctional institution. If 13933
the state highway patrol determines after receipt of the report 13934

that it is probable that abuse or neglect of the inmate 13935
occurred, the patrol shall report its findings to the department 13936
of rehabilitation and correction, to the court that sentenced 13937
the inmate for the offense for which the inmate is in the 13938
custody of the department, and to the chairperson and vice- 13939
chairperson of the correctional institution inspection committee 13940
established by section 103.71 of the Revised Code. 13941

Sec. 5121.04. (A) The department of developmental 13942
disabilities shall investigate the financial condition of the 13943
residents in institutions, residents whose care or treatment is 13944
being paid for in a private facility or home under the control 13945
of the department, and of the relatives named in section 5121.06 13946
of the Revised Code as liable for the support of such residents, 13947
in order to determine the ability of any resident or liable 13948
relatives to pay for the support of the resident and to provide 13949
suitable clothing as required by the superintendent of the 13950
institution. 13951

(B) The department shall follow the provisions of this 13952
division in determining the ability to pay of a resident or the 13953
resident's liable relatives and the amount to be charged such 13954
resident or liable relatives. 13955

(1) Subject to divisions (B)(10) and (11) of this section, 13956
a resident without dependents shall be liable for the full 13957
applicable cost. A resident without dependents who has a gross 13958
annual income equal to or exceeding the sum of the full 13959
applicable cost, plus fifty dollars per month, regardless of the 13960
source of such income, shall pay currently the full amount of 13961
the applicable cost; if the resident's gross annual income is 13962
less than such sum, not more than fifty dollars per month shall 13963
be kept for personal use by or on behalf of the resident, except 13964

as permitted in the state plan for providing medical assistance 13965
under Title XIX of the "Social Security Act," 49 Stat. 620 13966
(1935), 42 U.S.C. 301, as amended, and the balance shall be paid 13967
currently on the resident's support. Subject to divisions (B) 13968
(10) and (11) of this section, the estate of a resident without 13969
dependents shall pay currently any remaining difference between 13970
the applicable cost and the amounts prescribed in this section, 13971
or shall execute an agreement with the department for payment to 13972
be made at some future date under terms suitable to the 13973
department. However, no security interest, mortgage, or lien 13974
shall be taken, granted, or charged against any principal 13975
residence of a resident without dependents under an agreement or 13976
otherwise to secure support payments, and no foreclosure actions 13977
shall be taken on security interests, mortgages, or liens taken, 13978
granted, or charged against principal residences of residents 13979
prior to October 7, 1977. 13980

(2) The ability to pay of a resident with dependents, or 13981
of a liable relative of a resident either with or without 13982
dependents, shall be determined in accordance with the 13983
resident's or liable relative's income or other assets, the 13984
needs of others who are dependent on such income and other 13985
assets for support, and, if applicable, divisions (B) (10) and 13986
(11) of this section. 13987

For the first thirty days of care and treatment of each 13988
admission, but in no event for more than thirty days in any 13989
calendar year, the resident with dependents or the liable 13990
relative of a resident either with or without dependents shall 13991
be charged an amount equal to the percentage of the average 13992
applicable cost determined in accordance with the schedule of 13993
adjusted gross annual income contained after this paragraph. 13994
After such first thirty days of care and treatment, such 13995

resident or such liable relative shall be charged an amount 13996
 equal to the percentage of a base support rate of four dollars 13997
 per day for residents, as determined in accordance with the 13998
 schedule of gross annual income contained after this paragraph, 13999
 or in accordance with division (B) (5) of this section. Beginning 14000
 January 1, 1978, the department shall increase the base rate 14001
 when the consumer price index average is more than 4.0 for the 14002
 preceding calendar year by not more than the average for such 14003
 calendar year. 14004

Adjusted Gross Annual 14005
 Income of Resident 14006
 or Liable Relative (FN a) Number of Dependents (FN b) 14007

	Number of Dependents (FN b)								14008
	1	2	3	4	5	6	7	8 or more	
Rate of Support (In Percentages)									14009
\$15,000 or less	--	--	--	--	--	--	--	--	14010
15,001 to 17,500	20	--	--	--	--	--	--	--	14011
17,501 to 20,000	25	20	--	--	--	--	--	--	14012
20,001 to 21,000	30	25	20	--	--	--	--	--	14013
21,001 to 22,000	35	30	25	20	--	--	--	--	14014
22,001 to 23,000	40	35	30	25	20	--	--	--	14015
23,001 to 24,000	45	40	35	30	25	20	--	--	14016
24,001 to 25,000	50	45	40	35	30	25	20	--	14017
25,001 to 26,000	55	50	45	40	35	30	25	20	14018
26,001 to 27,000	60	55	50	45	40	35	30	25	14019
27,001 to 28,000	70	60	55	50	45	40	35	30	14020
28,001 to 30,000	80	70	60	55	50	45	40	35	14021
30,001 to 40,000	90	80	70	60	55	50	45	40	14022
40,001 and over	100	90	80	70	60	55	50	45	14023

Footnote a. The resident or relative shall furnish a copy 14024

of the resident's or relative's federal income tax return as 14026
evidence of gross annual income. 14027

Footnote b. The number of dependents includes the liable 14028
relative but excludes a resident in an institution. "Dependent" 14029
includes any person who receives more than half the person's 14030
support from the resident or the resident's liable relative. 14031

(3) A resident or liable relative having medical, funeral, 14032
or related expenses in excess of four per cent of the adjusted 14033
gross annual income, which expenses were not covered by 14034
insurance, may adjust such gross annual income by reducing the 14035
adjusted gross annual income by the full amount of such 14036
expenses. Proof of such expenses satisfactory to the department 14037
must be furnished. 14038

(4) Additional dependencies may be claimed if: 14039

(a) The liable relative is blind; 14040

(b) The liable relative is over sixty-five; 14041

(c) A child is a college student with expenses in excess 14042
of fifty dollars per month; 14043

(d) The services of a housekeeper, costing in excess of 14044
fifty dollars per month, are required if the person who normally 14045
keeps house for minor children is the resident. 14046

(5) If with respect to any resident with dependents there 14047
is chargeable under division (B) (2) of this section less than 14048
fifty per cent of the applicable cost or, if the base support 14049
rate was used, less than fifty per cent of the amount determined 14050
by use of the base support rate, and if with respect to such 14051
resident there is a liable relative who has an estate having a 14052
value in excess of fifteen thousand dollars or if such resident 14053

has a dependent and an estate having a value in excess of 14054
fifteen thousand dollars, there shall be paid with respect to 14055
such resident a total of fifty per cent of the applicable cost 14056
or the base support rate amount, as the case may be, on a 14057
current basis or there shall be executed with respect to such 14058
resident an agreement with the department for payment to be made 14059
at some future date under terms suitable to the department. 14060

(6) When a person has been a resident for fifteen years 14061
and the support charges for which a relative is liable have been 14062
paid for the fifteen-year period, the liable relative shall be 14063
relieved of any further support charges. 14064

(7) The department shall accept voluntary payments from 14065
residents or liable relatives whose incomes are below the 14066
minimum shown in the schedule set forth in this division. The 14067
department also shall accept voluntary payments in excess of 14068
required amounts from both liable and nonliable relatives. 14069

(8) If a resident is covered by an insurance policy, or 14070
other contract that provides for payment of expenses for care 14071
and treatment for ~~mental retardation~~ an intellectual or other 14072
developmental disability at or from an institution or facility 14073
(including a community service unit under the jurisdiction of 14074
the department), the other provisions of this section, except 14075
divisions (B) (8), (10), and (11) of this section, and of section 14076
5121.01 of the Revised Code shall be suspended to the extent 14077
that such insurance policy or other contract is in force, and 14078
such resident shall be charged the full amount of the applicable 14079
cost. Any insurance carrier or other third party payor providing 14080
coverage for such care and treatment shall pay for this support 14081
obligation in an amount equal to the lesser of either the 14082
applicable cost or the benefits provided under the policy or 14083

other contract. Whether or not an insured, owner of, or other person having an interest in such policy or other contract is liable for support payments under other provisions of this chapter, the insured, policy owner, or other person shall assign payment directly to the department of all assignable benefits under the policy or other contract and shall pay over to the department, within ten days of receipt, all insurance or other benefits received as reimbursement or payment for expenses incurred by the resident or for any other reason. If the insured, policy owner, or other person refuses to assign such payment to the department or refuses to pay such received reimbursements or payments over to the department within ten days of receipt, the insured's, policy owners', or other person's total liability for the services equals the applicable statutory liability for payment for the services as determined under other provisions of this chapter, plus the amounts payable under the terms of the policy or other contract. In no event shall this total liability exceed the full amount of the applicable cost. Upon its request, the department is entitled to a court order that compels the insured, owner of, or other person having an interest in the policy or other contract to comply with the assignment requirements of this division or that itself serves as a legally sufficient assignment in compliance with such requirements. Notwithstanding section 5123.89 of the Revised Code and any other law relating to confidentiality of records, the managing officer of the institution or facility where a person is or has been a resident shall disclose pertinent medical information concerning the resident to the insurance carrier or other third party payor in question, in order to effect collection from the carrier or payor of the state's claim for care and treatment under this division. For such disclosure, the managing officer is not subject to any

civil or criminal liability. 14116

(9) The rate to be charged for pre-admission care, after- 14117
care, day-care, or routine consultation and treatment services 14118
shall be based upon the ability of the resident or the 14119
resident's liable relatives to pay. When it is determined by the 14120
department that a charge shall be made, such charge shall be 14121
computed as provided in divisions (B) (1) and (2) of this 14122
section. 14123

(10) If a resident with or without dependents is the 14124
beneficiary of a trust created pursuant to section 5815.28 of 14125
the Revised Code, then, notwithstanding any contrary provision 14126
of this chapter or of a rule adopted pursuant to this chapter, 14127
divisions (C) and (D) of that section shall apply in determining 14128
the assets or resources of the resident, the resident's estate, 14129
the settlor, or the settlor's estate and to claims arising under 14130
this chapter against the resident, the resident's estate, the 14131
settlor, or the settlor's estate. 14132

(11) If the department waives the liability of an 14133
individual and the individual's liable relatives pursuant to 14134
section 5123.194 of the Revised Code, the liability of the 14135
individual and relative ceases in accordance with the waiver's 14136
terms. 14137

(C) The department may enter into agreements with a 14138
resident or a liable relative for support payments to be made in 14139
the future. However, no security interest, mortgage, or lien 14140
shall be taken, granted, or charged against any principal family 14141
residence of a resident with dependents or a liable relative 14142
under an agreement or otherwise to secure support payments, and 14143
no foreclosure actions shall be taken on security interests, 14144
mortgages or liens taken, granted, or charged against principal 14145

residences of residents or liable relatives prior to October 7, 14146
1977. 14147

(D) The department shall make all investigations and 14148
determinations required by this section within ninety days after 14149
a resident is admitted to an institution under the department's 14150
control and immediately shall notify by mail the persons liable 14151
of the amount to be charged. 14152

(E) All actions to enforce the collection of payments 14153
agreed upon or charged by the department shall be commenced 14154
within six years after the date of default of an agreement to 14155
pay support charges or the date such payment becomes delinquent. 14156
If a payment is made pursuant to an agreement which is in 14157
default, a new six-year period for actions to enforce the 14158
collection of payments under such agreement shall be computed 14159
from the date of such payment. For purposes of this division an 14160
agreement is in default or a payment is delinquent if a payment 14161
is not made within thirty days after it is incurred or a 14162
payment, pursuant to an agreement, is not made within thirty 14163
days after the date specified for such payment. In all actions 14164
to enforce the collection of payment for the liability for 14165
support, every court of record shall receive into evidence the 14166
proof of claim made by the state together with all debts and 14167
credits, and it shall be prima-facie evidence of the facts 14168
contained in it. 14169

Sec. 5122.01. As used in this chapter and Chapter 5119. of 14170
the Revised Code: 14171

(A) "Mental illness" means a substantial disorder of 14172
thought, mood, perception, orientation, or memory that grossly 14173
impairs judgment, behavior, capacity to recognize reality, or 14174
ability to meet the ordinary demands of life. 14175

- (B) "Mentally ill person subject to court order" means a 14176
mentally ill person who, because of the person's illness: 14177
- (1) Represents a substantial risk of physical harm to self 14178
as manifested by evidence of threats of, or attempts at, suicide 14179
or serious self-inflicted bodily harm; 14180
- (2) Represents a substantial risk of physical harm to 14181
others as manifested by evidence of recent homicidal or other 14182
violent behavior, evidence of recent threats that place another 14183
in reasonable fear of violent behavior and serious physical 14184
harm, or other evidence of present dangerousness; 14185
- (3) Represents a substantial and immediate risk of serious 14186
physical impairment or injury to self as manifested by evidence 14187
that the person is unable to provide for and is not providing 14188
for the person's basic physical needs because of the person's 14189
mental illness and that appropriate provision for those needs 14190
cannot be made immediately available in the community; ~~or~~ 14191
- (4) Would benefit from treatment for the person's mental 14192
illness and is in need of such treatment as manifested by 14193
evidence of behavior that creates a grave and imminent risk to 14194
substantial rights of others or the person; 14195
- (5) (a) Would benefit from treatment as manifested by 14196
evidence of behavior that indicates all of the following: 14197
- (i) The person is unlikely to survive safely in the 14198
community without supervision, based on a clinical 14199
determination. 14200
- (ii) The person has a history of lack of compliance with 14201
treatment for mental illness and one of the following applies: 14202
- (I) At least twice within the thirty-six months prior to 14203

the filing of an affidavit seeking court-ordered treatment of 14204
the person under section 5122.111 of the Revised Code, the lack 14205
of compliance has been a significant factor in necessitating 14206
hospitalization in a hospital or receipt of services in a 14207
forensic or other mental health unit of a correctional facility, 14208
provided that the thirty-six-month period shall be extended by 14209
the length of any hospitalization or incarceration of the person 14210
that occurred within the thirty-six-month period. 14211

(II) Within the forty-eight months prior to the filing of 14212
an affidavit seeking court-ordered treatment of the person under 14213
section 5122.111 of the Revised Code, the lack of compliance 14214
resulted in one or more acts of serious violent behavior toward 14215
self or others or threats of, or attempts at, serious physical 14216
harm to self or others, provided that the forty-eight-month 14217
period shall be extended by the length of any hospitalization or 14218
incarceration of the person that occurred within the forty- 14219
eight-month period. 14220

(iii) The person, as a result of the person's mental 14221
illness, is unlikely to voluntarily participate in necessary 14222
treatment. 14223

(iv) In view of the person's treatment history and current 14224
behavior, the person is in need of treatment in order to prevent 14225
a relapse or deterioration that would be likely to result in 14226
substantial risk of serious harm to the person or others. 14227

(b) An individual who meets only the criteria described in 14228
division (B) (5) (a) of this section is not subject to 14229
hospitalization. 14230

(C) (1) "Patient" means, subject to division (C) (2) of this 14231
section, a person who is admitted either voluntarily or 14232

involuntarily to a hospital or other place under section 14233
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 14234
subsequent to a finding of not guilty by reason of insanity or 14235
incompetence to stand trial or under this chapter, who is under 14236
observation or receiving treatment in such place. 14237

(2) "Patient" does not include a person admitted to a 14238
hospital or other place under section 2945.39, 2945.40, 14239
2945.401, or 2945.402 of the Revised Code to the extent that the 14240
reference in this chapter to patient, or the context in which 14241
the reference occurs, is in conflict with any provision of 14242
sections 2945.37 to 2945.402 of the Revised Code. 14243

(D) "Licensed physician" means a person licensed under the 14244
laws of this state to practice medicine or a medical officer of 14245
the government of the United States while in this state in the 14246
performance of the person's official duties. 14247

(E) "Psychiatrist" means a licensed physician who has 14248
satisfactorily completed a residency training program in 14249
psychiatry, as approved by the residency review committee of the 14250
American medical association, the committee on post-graduate 14251
education of the American osteopathic association, or the 14252
American osteopathic board of neurology and psychiatry, or who 14253
on July 1, 1989, has been recognized as a psychiatrist by the 14254
Ohio state medical association or the Ohio osteopathic 14255
association on the basis of formal training and five or more 14256
years of medical practice limited to psychiatry. 14257

(F) "Hospital" means a hospital or inpatient unit licensed 14258
by the department of mental health and addiction services under 14259
section 5119.33 of the Revised Code, and any institution, 14260
hospital, or other place established, controlled, or supervised 14261
by the department under Chapter 5119. of the Revised Code. 14262

(G) "Public hospital" means a facility that is tax- 14263
supported and under the jurisdiction of the department of mental 14264
health and addiction services. 14265

(H) "Community mental health services provider" means an 14266
agency, association, corporation, individual, or program that 14267
provides community mental health services that are certified by 14268
the director of mental health and addiction services under 14269
section 5119.36 of the Revised Code. 14270

(I) "Licensed clinical psychologist" means a person who 14271
holds a current valid psychologist license issued under section 14272
4732.12 of the Revised Code, and in addition, meets the 14273
educational requirements set forth in division (B) of section 14274
4732.10 of the Revised Code and has a minimum of two years' 14275
full-time professional experience, or the equivalent as 14276
determined by rule of the state board of psychology, at least 14277
one year of which shall be a predoctoral internship, in clinical 14278
psychological work in a public or private hospital or clinic or 14279
in private practice, diagnosing and treating problems of mental 14280
illness or ~~mental retardation~~ intellectual disability under the 14281
supervision of a psychologist who is licensed or who holds a 14282
diploma issued by the American board of professional psychology, 14283
or whose qualifications are substantially similar to those 14284
required for licensure by the state board of psychology when the 14285
supervision has occurred prior to enactment of laws governing 14286
the practice of psychology. 14287

(J) "Health officer" means any public health physician; 14288
public health nurse; or other person authorized by or designated 14289
by a city health district; a general health district; or a board 14290
of alcohol, drug addiction, and mental health services to 14291
perform the duties of a health officer under this chapter. 14292

(K) "Chief clinical officer" means the medical director of a hospital, or a community mental health services provider, or a board of alcohol, drug addiction, and mental health services, or, if there is no medical director, the licensed physician responsible for the treatment a hospital or community mental health services provider provides. The chief clinical officer may delegate to the attending physician responsible for a patient's care the duties imposed on the chief clinical officer by this chapter. Within a community mental health services provider, the chief clinical officer shall be designated by the governing body of the services provider and shall be a licensed physician or licensed clinical psychologist who supervises diagnostic and treatment services. A licensed physician or licensed clinical psychologist designated by the chief clinical officer may perform the duties and accept the responsibilities of the chief clinical officer in the chief clinical officer's absence. 14293
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(L) "Working day" or "court day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday. 14310
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(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony. 14313
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(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter. 14317
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(O) "Ohio protection and advocacy system" has the same meaning as in section 5123.60 of the Revised Code. 14321
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(P) "Independent expert evaluation" means an evaluation 14323
conducted by a licensed clinical psychologist, psychiatrist, or 14324
licensed physician who has been selected by the respondent or 14325
the respondent's counsel and who consents to conducting the 14326
evaluation. 14327

(Q) "Court" means the probate division of the court of 14328
common pleas. 14329

(R) "Expunge" means: 14330

(1) The removal and destruction of court files and 14331
records, originals and copies, and the deletion of all index 14332
references; 14333

(2) The reporting to the person of the nature and extent 14334
of any information about the person transmitted to any other 14335
person by the court; 14336

(3) Otherwise insuring that any examination of court files 14337
and records in question shall show no record whatever with 14338
respect to the person; 14339

(4) That all rights and privileges are restored, and that 14340
the person, the court, and any other person may properly reply 14341
that no such record exists, as to any matter expunged. 14342

(S) "Residence" means a person's physical presence in a 14343
county with intent to remain there, except that: 14344

(1) If a person is receiving a mental health service at a 14345
facility that includes nighttime sleeping accommodations, 14346
residence means that county in which the person maintained the 14347
person's primary place of residence at the time the person 14348
entered the facility; 14349

(2) If a person is committed pursuant to section 2945.38, 14350

2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 14351
residence means the county where the criminal charges were 14352
filed. 14353

When the residence of a person is disputed, the matter of 14354
residence shall be referred to the department of mental health 14355
and addiction services for investigation and determination. 14356
Residence shall not be a basis for a board's denying services to 14357
any person present in the board's service district, and the 14358
board shall provide services for a person whose residence is in 14359
dispute while residence is being determined and for a person in 14360
an emergency situation. 14361

(T) "Admission" to a hospital or other place means that a 14362
patient is accepted for and stays at least one night at the 14363
hospital or other place. 14364

(U) "Prosecutor" means the prosecuting attorney, village 14365
solicitor, city director of law, or similar chief legal officer 14366
who prosecuted a criminal case in which a person was found not 14367
guilty by reason of insanity, who would have had the authority 14368
to prosecute a criminal case against a person if the person had 14369
not been found incompetent to stand trial, or who prosecuted a 14370
case in which a person was found guilty. 14371

(V) (1) "Treatment plan" means a written statement of 14372
reasonable objectives and goals for an individual established by 14373
the treatment team, with specific criteria to evaluate progress 14374
towards achieving those objectives. 14375

(2) The active participation of the patient in 14376
establishing the objectives and goals shall be documented. The 14377
treatment plan shall be based on patient needs and include 14378
services to be provided to the patient while the patient is 14379

hospitalized, after the patient is discharged, or in an 14380
outpatient setting. The treatment plan shall address services to 14381
be provided. In the establishment of the treatment plan, 14382
consideration should be given to the availability of services, 14383
which may include but are not limited to all of the following: 14384

- (a) Community psychiatric supportive treatment; 14385
- (b) Assertive community treatment; 14386
- (c) Medications; 14387
- (d) Individual or group therapy; 14388
- (e) Peer support services; 14389
- (f) Financial services; 14390
- (g) Housing or supervised living services; 14391
- (h) Alcohol or substance abuse treatment; 14392
- (i) Any other services prescribed to treat the patient's 14393
mental illness and to either assist the patient in living and 14394
functioning in the community or to help prevent a relapse or a 14395
deterioration of the patient's current condition. 14396

(3) If the person subject to the treatment plan has 14397
executed an advanced directive for mental health treatment, the 14398
treatment team shall consider any directions included in such 14399
advanced directive in developing the treatment plan. 14400

(W) "Community control sanction" has the same meaning as 14401
in section 2929.01 of the Revised Code. 14402

(X) "Post-release control sanction" has the same meaning 14403
as in section 2967.01 of the Revised Code. 14404

(Y) "Local correctional facility" has the same meaning as 14405

in section 2903.13 of the Revised Code. 14406

Sec. 5123.01. As used in this chapter: 14407

(A) "Chief medical officer" means the licensed physician 14408
appointed by the managing officer of an institution for ~~the~~ 14409
~~mentally retarded persons with an intellectual disability~~ with 14410
the approval of the director of developmental disabilities to 14411
provide medical treatment for residents of the institution. 14412

(B) "Chief program director" means a person with special 14413
training and experience in the diagnosis and management of ~~the~~ 14414
~~mentally retarded persons with an intellectual disability,~~ 14415
certified according to division (C) of this section in at least 14416
one of the designated fields, and appointed by the managing 14417
officer of an institution for ~~the mentally retarded~~ persons with 14418
an intellectual disability with the approval of the director to 14419
provide habilitation and care for residents of the institution. 14420

(C) "Comprehensive evaluation" means a study, including a 14421
sequence of observations and examinations, of a person leading 14422
to conclusions and recommendations formulated jointly, with 14423
dissenting opinions if any, by a group of persons with special 14424
training and experience in the diagnosis and management of 14425
persons with ~~mental retardation~~ an intellectual or a 14426
developmental disability, which group shall include individuals 14427
who are professionally qualified in the fields of medicine, 14428
psychology, and social work, together with such other 14429
specialists as the individual case may require. 14430

(D) "Education" means the process of formal training and 14431
instruction to facilitate the intellectual and emotional 14432
development of residents. 14433

(E) "Habilitation" means the process by which the staff of 14434

the institution assists the resident in acquiring and 14435
maintaining those life skills that enable the resident to cope 14436
more effectively with the demands of the resident's own person 14437
and of the resident's environment and in raising the level of 14438
the resident's physical, mental, social, and vocational 14439
efficiency. Habilitation includes but is not limited to programs 14440
of formal, structured education and training. 14441

(F) "Health officer" means any public health physician, 14442
public health nurse, or other person authorized or designated by 14443
a city or general health district. 14444

(G) "Home and community-based services" means medicaid- 14445
funded home and community-based services specified in division 14446
(A) (1) of section 5166.20 of the Revised Code provided under the 14447
medicaid waiver components the department of developmental 14448
disabilities administers pursuant to section 5166.21 of the 14449
Revised Code. Except as provided in section 5123.0412 of the 14450
Revised Code, home and community-based services provided under 14451
the medicaid waiver component known as the transitions 14452
developmental disabilities waiver are to be considered to be 14453
home and community-based services for the purposes of this 14454
chapter, and Chapters 5124. and 5126. of the Revised Code, only 14455
to the extent, if any, provided by the contract required by 14456
section 5166.21 of the Revised Code regarding the waiver. 14457

(H) "ICF/IID" has the same meaning as in section 5124.01 14458
of the Revised Code. 14459

(I) "Indigent person" means a person who is unable, 14460
without substantial financial hardship, to provide for the 14461
payment of an attorney and for other necessary expenses of legal 14462
representation, including expert testimony. 14463

(J) "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~~ persons with an intellectual disability. 14464
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(K) "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. 14469
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(L) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for ~~the mentally-retarded~~ persons with an intellectual disability under the jurisdiction of the department. 14475
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(M) "Medicaid case management services" means case management services provided to an individual with ~~mental-retardation~~ an intellectual or other developmental disability that the state medicaid plan requires. 14480
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(N) "~~Mentally-retarded person~~ Person with an intellectual disability" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 14484
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(O) "~~Mentally-retarded person~~ Person with an intellectual disability subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately ~~mentally-retarded~~ intellectually disabled and in 14489
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relation to whom, because of the person's ~~retardation~~ 14493
disability, either of the following conditions exist: 14494

(1) The person represents a very substantial risk of 14495
physical impairment or injury to self as manifested by evidence 14496
that the person is unable to provide for and is not providing 14497
for the person's most basic physical needs and that provision 14498
for those needs is not available in the community; 14499

(2) The person needs and is susceptible to significant 14500
habilitation in an institution. 14501

(P) "A person ~~who is with~~ at least ~~moderately mentally~~ 14502
~~retarded~~ a moderate level of intellectual disability" means a 14503
person who is found, following a comprehensive evaluation, to be 14504
impaired in adaptive behavior to a moderate degree and to be 14505
functioning at the moderate level of intellectual functioning in 14506
accordance with standard measurements as recorded in the most 14507
current revision of the ~~manual of terminology and classification~~ 14508
~~in mental retardation~~ intellectual disability: definition, 14509
classification, and systems of supports manual or its successor 14510
publication published by the American association on ~~mental~~ 14511
~~retardation~~ intellectual and developmental disabilities or its 14512
successor organization. 14513

(Q) As used in this division, "developmental delay" has 14514
the meaning established pursuant to section 5123.011 of the 14515
Revised Code. 14516

"Developmental disability" means a severe, chronic 14517
disability that is characterized by all of the following: 14518

(1) It is attributable to a mental or physical impairment 14519
or a combination of mental and physical impairments, other than 14520
a mental or physical impairment solely caused by mental illness 14521

as defined in division (A) of section 5122.01 of the Revised Code. 14522
14523

(2) It is manifested before age twenty-two. 14524

(3) It is likely to continue indefinitely. 14525

(4) It results in one of the following: 14526

(a) In the case of a person under three years of age, at 14527
least one developmental delay or a diagnosed physical or mental 14528
condition that has a high probability of resulting in a 14529
developmental delay; 14530

(b) In the case of a person at least three years of age 14531
but under six years of age, at least two developmental delays; 14532

(c) In the case of a person six years of age or older, a 14533
substantial functional limitation in at least three of the 14534
following areas of major life activity, as appropriate for the 14535
person's age: self-care, receptive and expressive language, 14536
learning, mobility, self-direction, capacity for independent 14537
living, and, if the person is at least sixteen years of age, 14538
capacity for economic self-sufficiency. 14539

(5) It causes the person to need a combination and 14540
sequence of special, interdisciplinary, or other type of care, 14541
treatment, or provision of services for an extended period of 14542
time that is individually planned and coordinated for the 14543
person. 14544

(R) "~~Developmentally disabled person~~Person with a 14545
developmental disability" means a person with a developmental 14546
disability as defined in division (Q) of this section. 14547

(S) "State institution" means an institution that is tax- 14548
supported and under the jurisdiction of the department. 14549

(T) "Residence" and "legal residence" have the same 14550
meaning as "legal settlement," which is acquired by residing in 14551
Ohio for a period of one year without receiving general 14552
assistance prior to July 17, 1995, under former Chapter 5113. of 14553
the Revised Code, financial assistance under Chapter 5115. of 14554
the Revised Code, or assistance from a private agency that 14555
maintains records of assistance given. A person having a legal 14556
settlement in the state shall be considered as having legal 14557
settlement in the assistance area in which the person resides. 14558
No adult person coming into this state and having a spouse or 14559
minor children residing in another state shall obtain a legal 14560
settlement in this state as long as the spouse or minor children 14561
are receiving public assistance, care, or support at the expense 14562
of the other state or its subdivisions. For the purpose of 14563
determining the legal settlement of a person who is living in a 14564
public or private institution or in a home subject to licensing 14565
by the department of job and family services, the department of 14566
mental health and addiction services, or the department of 14567
developmental disabilities, the residence of the person shall be 14568
considered as though the person were residing in the county in 14569
which the person was living prior to the person's entrance into 14570
the institution or home. Settlement once acquired shall continue 14571
until a person has been continuously absent from Ohio for a 14572
period of one year or has acquired a legal residence in another 14573
state. A woman who marries a man with legal settlement in any 14574
county immediately acquires the settlement of her husband. The 14575
legal settlement of a minor is that of the parents, surviving 14576
parent, sole parent, parent who is designated the residential 14577
parent and legal custodian by a court, other adult having 14578
permanent custody awarded by a court, or guardian of the person 14579
of the minor, provided that: 14580

(1) A minor female who marries shall be considered to have 14581
the legal settlement of her husband and, in the case of death of 14582
her husband or divorce, she shall not thereby lose her legal 14583
settlement obtained by the marriage. 14584

(2) A minor male who marries, establishes a home, and who 14585
has resided in this state for one year without receiving general 14586
assistance prior to July 17, 1995, under former Chapter 5113. of 14587
the Revised Code, financial assistance under Chapter 5115. of 14588
the Revised Code, or assistance from a private agency that 14589
maintains records of assistance given shall be considered to 14590
have obtained a legal settlement in this state. 14591

(3) The legal settlement of a child under eighteen years 14592
of age who is in the care or custody of a public or private 14593
child caring agency shall not change if the legal settlement of 14594
the parent changes until after the child has been in the home of 14595
the parent for a period of one year. 14596

No person, adult or minor, may establish a legal 14597
settlement in this state for the purpose of gaining admission to 14598
any state institution. 14599

(U) (1) "Resident" means, subject to division (U) (2) of 14600
this section, a person who is admitted either voluntarily or 14601
involuntarily to an institution or other facility pursuant to 14602
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 14603
Code subsequent to a finding of not guilty by reason of insanity 14604
or incompetence to stand trial or under this chapter who is 14605
under observation or receiving habilitation and care in an 14606
institution. 14607

(2) "Resident" does not include a person admitted to an 14608
institution or other facility under section 2945.39, 2945.40, 14609

2945.401, or 2945.402 of the Revised Code to the extent that the 14610
reference in this chapter to resident, or the context in which 14611
the reference occurs, is in conflict with any provision of 14612
sections 2945.37 to 2945.402 of the Revised Code. 14613

(V) "Respondent" means the person whose detention, 14614
commitment, or continued commitment is being sought in any 14615
proceeding under this chapter. 14616

(W) "Working day" and "court day" mean Monday, Tuesday, 14617
Wednesday, Thursday, and Friday, except when such day is a legal 14618
holiday. 14619

(X) "Prosecutor" means the prosecuting attorney, village 14620
solicitor, city director of law, or similar chief legal officer 14621
who prosecuted a criminal case in which a person was found not 14622
guilty by reason of insanity, who would have had the authority 14623
to prosecute a criminal case against a person if the person had 14624
not been found incompetent to stand trial, or who prosecuted a 14625
case in which a person was found guilty. 14626

(Y) "Court" means the probate division of the court of 14627
common pleas. 14628

(Z) "Supported living" and "residential services" have the 14629
same meanings as in section 5126.01 of the Revised Code. 14630

Sec. 5123.012. (A) As used in this section, "preschool 14631
child with a disability" has the same meaning as in section 14632
3323.01 of the Revised Code. 14633

(B) Except as provided in division (C) of this section, 14634
the department of developmental disabilities shall make 14635
eligibility determinations in accordance with the definition of 14636
"developmental disability" in section 5123.01 of the Revised 14637
Code. The department may adopt rules in accordance with Chapter 14638

119. of the Revised Code establishing eligibility for programs 14639
and services for any preschool child with a disability eligible 14640
for services under section 3323.02 of the Revised Code whose 14641
disability is not attributable solely to mental illness as 14642
defined in section 5122.01 of the Revised Code. 14643

(C) (1) The department shall make determinations of 14644
eligibility for protective services in accordance with sections 14645
5123.55 to 5123.59 of the Revised Code. 14646

(2) Determinations of whether a ~~mentally retarded~~ person 14647
with an intellectual disability is subject to 14648
institutionalization by court order shall be made in accordance 14649
with sections 5123.71 to 5123.76 of the Revised Code and shall 14650
be based on the definition of "~~mentally retarded person~~ with an 14651
intellectual disability subject to institutionalization by court 14652
order" in section 5123.01 of the Revised Code. 14653

(3) All persons who were eligible for services and 14654
enrolled in programs offered by the department of developmental 14655
disabilities pursuant to this chapter on July 1, 1991, shall 14656
continue to be eligible for those services and to be enrolled in 14657
those programs as long as they are in need of services. 14658

Sec. 5123.02. The department of developmental disabilities 14659
shall do the following: 14660

(A) Promote comprehensive statewide programs and services 14661
for persons with ~~mental retardation~~ an intellectual or a 14662
developmental disability and their families wherever they reside 14663
in the state. These programs shall include public education, 14664
prevention, diagnosis, treatment, training, and care. 14665

(B) Provide administrative leadership for statewide 14666
services which include residential facilities, evaluation 14667

centers, and community classes which are wholly or in part 14668
financed by the department of developmental disabilities as 14669
provided by section 5123.26 of the Revised Code; 14670

(C) Develop and maintain, to the extent feasible, data on 14671
all services and programs for persons with ~~mental retardation~~an 14672
intellectual or ~~a~~ developmental disability, that are provided by 14673
governmental and private agencies; 14674

(D) Make periodic determinations of the number of persons 14675
with ~~mental retardation~~an intellectual or ~~a~~ developmental 14676
disability requiring services in the state; 14677

(E) Provide leadership to local authorities in planning 14678
and developing community-wide services for persons with ~~mental~~ 14679
~~retardation~~an intellectual or ~~a~~ developmental disability and 14680
their families; 14681

(F) Promote programs of professional training and research 14682
in cooperation with other state departments, agencies, and 14683
institutions of higher learning. 14684

Sec. 5123.021. (A) As used in this section, "~~mentally~~ 14685
~~retarded~~individual with an intellectual disability" and 14686
"specialized services" have the same meanings as in section 14687
5165.03 of the Revised Code. 14688

(B) (1) Except as provided in division (B) (2) of this 14689
section and rules adopted under division (E) (3) of this section, 14690
for purposes of section 5165.03 of the Revised Code, the 14691
department of developmental disabilities shall determine in 14692
accordance with section 1919(e) (7) of the "Social Security Act," 14693
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and 14694
regulations adopted under section 1919(f) (8) (A) of that act 14695
whether, because of the individual's physical and mental 14696

condition, ~~a mentally retarded~~ an individual with an 14697
intellectual disability seeking admission to a nursing facility 14698
requires the level of services provided by a nursing facility 14699
and, if the individual requires that level of services, whether 14700
the individual requires specialized services for ~~mental~~ 14701
~~retardation~~ intellectual disabilities. 14702

(2) A determination under this division is not required 14703
for any of the following: 14704

(a) An individual seeking readmission to a nursing 14705
facility after having been transferred from a nursing facility 14706
to a hospital for care; 14707

(b) An individual who meets all of the following 14708
conditions: 14709

(i) The individual is admitted to the nursing facility 14710
directly from a hospital after receiving inpatient care at the 14711
hospital; 14712

(ii) The individual requires nursing facility services for 14713
the condition for which the individual received care in the 14714
hospital; 14715

(iii) The individual's attending physician has certified, 14716
before admission to the nursing facility, that the individual is 14717
likely to require less than thirty days of nursing facility 14718
services. 14719

(c) An individual transferred from one nursing facility to 14720
another nursing facility, with or without an intervening 14721
hospital stay. 14722

(C) Except as provided in rules adopted under division (F) 14723
(3) of this section, the department of developmental 14724

disabilities shall review and determine, for each resident of a 14725
nursing facility who is ~~mentally retarded~~ intellectually 14726
disabled, whether the resident, because of the resident's 14727
physical and mental condition, requires the level of services 14728
provided by a nursing facility and whether the resident requires 14729
specialized services for ~~mental retardation~~ intellectual 14730
disabilities. The review and determination shall be conducted in 14731
accordance with section 1919(e) (7) of the "Social Security Act" 14732
and the regulations adopted under section 1919(f) (8) (A) of the 14733
act. The review and determination shall be completed promptly 14734
after a nursing facility has notified the department that there 14735
has been a significant change in the resident's mental or 14736
physical condition. 14737

(D) (1) In the case of a nursing facility resident who has 14738
continuously resided in a nursing facility for at least thirty 14739
months before the date of a review and determination under 14740
division (C) of this section, if the resident is determined not 14741
to require the level of services provided by a nursing facility, 14742
but is determined to require specialized services for ~~mental~~ 14743
~~retardation~~ intellectual disabilities, the department, in 14744
consultation with the resident's family or legal representative 14745
and care givers, shall do all of the following: 14746

(a) Inform the resident of the institutional and 14747
noninstitutional alternatives covered under the state plan for 14748
medical assistance; 14749

(b) Offer the resident the choice of remaining in the 14750
nursing facility or receiving covered services in an alternative 14751
institutional or noninstitutional setting; 14752

(c) Clarify the effect on eligibility for services under 14753
the state plan for medical assistance if the resident chooses to 14754

leave the facility, including its effect on readmission to the facility; 14755
14756

(d) Provide for or arrange for the provision of 14757
specialized services for the resident's ~~mental retardation~~ 14758
intellectual disability in the setting chosen by the resident. 14759

(2) In the case of a nursing facility resident who has 14760
continuously resided in a nursing facility for less than thirty 14761
months before the date of the review and determination under 14762
division (C) of this section, if the resident is determined not 14763
to require the level of services provided by a nursing facility, 14764
but is determined to require specialized services for ~~mental~~ 14765
~~retardation~~ intellectual disabilities, or if the resident is 14766
determined to require neither the level of services provided by 14767
a nursing facility nor specialized services for ~~mental~~ 14768
~~retardation~~ intellectual disabilities, the department shall act 14769
in accordance with its alternative disposition plan approved by 14770
the United States department of health and human services under 14771
section 1919(e) (7) (E) of the "Social Security Act." 14772

(3) In the case of an individual who is determined under 14773
division (B) or (C) of this section to require both the level of 14774
services provided by a nursing facility and specialized services 14775
for ~~mental retardation~~ intellectual disabilities, the department 14776
of developmental disabilities shall provide or arrange for the 14777
provision of the specialized services needed by the individual 14778
or resident while residing in a nursing facility. 14779

(E) The department of developmental disabilities shall 14780
adopt rules in accordance with Chapter 119. of the Revised Code 14781
that do all of the following: 14782

(1) Establish criteria to be used in making the 14783

determinations required by divisions (B) and (C) of this section. The criteria shall not exceed the criteria established by regulations adopted by the United States department of health and human services under section 1919(f)(8)(A) of the "Social Security Act."

(2) Specify information to be provided by the individual or nursing facility resident being assessed;

(3) Specify any circumstances, in addition to circumstances listed in division (B) of this section, under which determinations under divisions (B) and (C) of this section are not required to be made.

Sec. 5123.03. (A) The department of developmental disabilities shall do all of the following:

(1) Maintain, operate, manage, and govern all state institutions for the care, treatment, and training of ~~the mentally retarded~~ persons with intellectual disabilities;

(2) Designate all such institutions by appropriate names;

(3) Provide and designate facilities for the custody, care, and special treatment of persons of the following classes:

(a) Dangerous persons in state institutions for ~~the mentally retarded~~ persons with intellectual disabilities who represent a serious threat to the safety of the other patients of the institution;

(b) Persons charged with crimes who are found incompetent to stand trial or not guilty by reason of insanity and who are also ~~mentally retarded~~ persons with an intellectual disability subject to institutionalization by court order.

(4) Have control of all institutions maintained in part by

the state for the care, treatment, and training of ~~the mentally-~~ 14812
~~retarded persons with an intellectual disability;~~ 14813

(5) Administer the laws relative to persons in such 14814
institutions in an efficient, economical, and humane manner; 14815

(6) Ascertain by actual examinations and inquiry whether 14816
institutionalizations are made according to law. 14817

(B) The department may do any of the following: 14818

(1) Subject to section 5139.08 of the Revised Code, 14819
receive from the department of youth services for observation, 14820
diagnosis, care, habilitation, or placement of any children in 14821
the custody of the department of youth services; 14822

(2) Receive for observation any minor from a public 14823
institution other than an institution under the jurisdiction of 14824
the department of developmental disabilities, from a private 14825
charitable institution, or from a person having legal custody of 14826
such a minor, upon such terms as are proper; 14827

(3) Receive from the department of mental health and 14828
addiction services any patient in the custody of the department 14829
who is transferred to the department of developmental 14830
disabilities upon such terms and conditions as may be agreed 14831
upon by the two departments. 14832

(C) In addition to the powers and duties expressly 14833
conferred by this section, the department may take any other 14834
action necessary for the full and efficient executive, 14835
administrative, and fiscal supervision of the state institutions 14836
described in this section. 14837

Sec. 5123.033. The program fee fund is hereby created in 14838
the state treasury. All fees collected pursuant to sections 14839

5123.161, 5123.164, and 5123.19 of the Revised Code shall be 14840
credited to the fund. Money credited to the fund shall be used 14841
solely for the department of developmental disabilities' duties 14842
under sections 5123.16 to 5123.1610, and 5123.19 of the Revised 14843
Code and to provide continuing education and professional 14844
training to providers of services to individuals with ~~mental-~~ 14845
~~retardation~~ an intellectual or ~~a~~ developmental disability. If 14846
the money credited to the fund is inadequate to pay all of the 14847
department's costs in performing those duties and providing the 14848
continuing education and professional training, the department 14849
may use other available funds appropriated to the department to 14850
pay the remaining costs of performing those duties and providing 14851
the continuing education and professional training. 14852

Sec. 5123.04. (A) The director of developmental 14853
disabilities is the executive head of the department of 14854
developmental disabilities. All duties conferred on the 14855
department and its institutions by law or by order of the 14856
director shall be performed under such rules as the director 14857
prescribes, and shall be under the director's control. The 14858
director shall establish bylaws for the government of all 14859
institutions under the jurisdiction of the department. Except as 14860
otherwise is provided as to appointments by chiefs of divisions, 14861
the director shall appoint such employees as are necessary for 14862
the efficient conduct of the department, and shall prescribe 14863
their titles and duties. If the director is not a licensed 14864
physician, decisions relating to medical diagnosis and treatment 14865
shall be the responsibility of a licensed physician appointed by 14866
the director. 14867

(B) The director shall adopt rules for the proper 14868
execution of the powers and duties of the department. 14869

(C) The director shall adopt rules establishing standards 14870
that ~~mental retardation~~ programs and facilities for persons with 14871
an intellectual disability shall follow when performing 14872
evaluations of the mental condition of defendants ordered by the 14873
court under section 2919.271 or 2945.371 of the Revised Code, 14874
and for the treatment of defendants who have been found 14875
incompetent to stand trial under section 2945.38 of the Revised 14876
Code, and certify the compliance of such programs and facilities 14877
with the standards. 14878

(D) On behalf of the department, the director has the 14879
authority to, and responsibility for, entering into contracts 14880
and other agreements. 14881

(E) The director shall adopt rules in accordance with 14882
Chapter 119. of the Revised Code that do all of the following: 14883

(1) Specify the supplemental services that may be provided 14884
through a trust authorized by section 5815.28 of the Revised 14885
Code; 14886

(2) Establish standards for the maintenance and 14887
distribution to a beneficiary of assets of a trust authorized by 14888
section 5815.28 of the Revised Code. 14889

(F) The director shall provide monitoring of county boards 14890
of developmental disabilities. 14891

Sec. 5123.044. The department of developmental 14892
disabilities shall determine whether county boards of 14893
developmental disabilities violate the rights that individuals 14894
with ~~mental retardation~~ intellectual or other developmental 14895
disabilities have under section 5126.046 of the Revised Code to 14896
obtain home and community-based services, nonmedicaid 14897
residential services, or nonmedicaid supported living from 14898

qualified and willing providers. The department shall provide 14899
assistance to an individual with ~~mental retardation~~ an 14900
intellectual or other developmental disability who requests 14901
assistance with the individual's rights under that section if 14902
the department is notified of a county board's alleged violation 14903
of the individual's rights under that section. 14904

Sec. 5123.0410. An individual with ~~mental retardation~~ an 14905
intellectual or other developmental disability who moves from 14906
one county in this state to another county in this state shall 14907
receive home and community-based services in the new county that 14908
are comparable in scope to the home and community-based services 14909
the individual receives in the prior county at the time the 14910
individual moves. If the county board serving the county to 14911
which the individual moves determines under section 5126.041 of 14912
the Revised Code that the individual is eligible for county 14913
board services, the county board shall ensure that the 14914
individual receives the comparable services. If the county board 14915
determines that the individual is not eligible for county board 14916
services, the department of developmental disabilities shall 14917
ensure that the individual receives the comparable services. 14918

If the home and community-based services that the 14919
individual receives at the time the individual moves include 14920
supported living or residential services, the department shall 14921
reduce the amount the department allocates to the county board 14922
serving the county the individual left for those supported 14923
living or residential services by an amount that equals the 14924
payment the department authorizes or projects, or both, for 14925
those supported living or residential services from the last day 14926
the individual resides in the county to the last day of the 14927
state fiscal year in which the individual moves. The department 14928
shall increase the amount the department allocates to the county 14929

board serving the county the individual moves to by the same 14930
amount. The department shall make the reduction and increase 14931
effective the day the department determines the individual has 14932
residence in the new county. The department shall determine the 14933
amount that is to be reduced and increased in accordance with 14934
the department's rules for authorizing payments for home and 14935
community-based services established adopted under section 14936
5123.049 of the Revised Code. The department shall annualize the 14937
reduction and increase for the subsequent state fiscal year as 14938
necessary. 14939

Sec. 5123.0413. The department of developmental 14940
disabilities, in consultation with the department of job and 14941
family services, office of budget and management, and county 14942
boards of developmental disabilities, shall adopt rules in 14943
accordance with Chapter 119. of the Revised Code to establish 14944
both of the following in the event a county property tax levy 14945
for services for individuals with ~~mental retardation~~ 14946
intellectual or other developmental ~~disability~~ disabilities 14947
fails: 14948

(A) A method of paying for home and community-based 14949
services; 14950

(B) A method of reducing the number of individuals a 14951
county board would otherwise be required by section 5126.0512 of 14952
the Revised Code to ensure are enrolled in home and community- 14953
based services. 14954

Sec. 5123.0418. (A) In addition to other authority granted 14955
the director of developmental disabilities for use of funds 14956
appropriated to the department of developmental disabilities, 14957
the director may use such funds for the following purposes: 14958

(1) All of the following to assist persons with mental-	14959
retardation-intellectual or a developmental disability-	14960
<u>disabilities</u> remain in the community and avoid	14961
institutionalization:	14962
(a) Behavioral and short-term interventions;	14963
(b) Residential services;	14964
(c) Supported living.	14965
(2) Respite care services;	14966
(3) Staff training to help the following personnel serve	14967
persons with mental-retardation-intellectual or a developmental	14968
disability <u>disabilities</u> in the community:	14969
(a) Employees of, and personnel under contract with,	14970
county boards of developmental disabilities;	14971
(b) Employees of providers of supported living;	14972
(c) Employees of providers of residential services;	14973
(d) Other personnel the director identifies.	14974
(B) The director may establish priorities for using funds	14975
for the purposes specified in division (A) of this section. The	14976
director shall use the funds in a manner consistent with the	14977
appropriations that authorize the director to use the funds and	14978
all other state and federal laws governing the use of the funds.	14979
Sec. 5123.081. (A) As used in this section:	14980
(1) (a) "Applicant" means any of the following:	14981
(i) A person who is under final consideration for	14982
appointment to or employment with the department of	14983
developmental disabilities or a county board of developmental	14984

disabilities;	14985
(ii) A person who is being transferred to the department or a county board;	14986 14987
(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;	14988 14989
(iv) A person under final consideration for a direct services position with a provider or subcontractor.	14990 14991
(b) Neither of the following is an applicant:	14992
(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this section and either is being considered for a different position with the responsible entity or is returning after a leave of absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense;	14993 14994 14995 14996 14997 14998 14999
(ii) A person who is to provide only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with mental retardation <u>an intellectual</u> or a developmental disability who is to receive the respite care selects the person.	15000 15001 15002 15003 15004 15005
(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	15006 15007
(3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals with mental retardation <u>intellectual</u> or a developmental disability <u>disabilities</u> .	15008 15009 15010 15011 15012

(4) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(5) (a) "Employee" means either of the following:

(i) A person appointed to or employed by the department of developmental disabilities or a county board of developmental disabilities;

(ii) A person employed in a direct services position by a provider or subcontractor.

(b) "Employee" does not mean a person who provides only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with ~~mental retardation~~ an intellectual or a developmental disability who receives the respite care selected the person.

(6) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(7) "Provider" means a person that provides specialized services to individuals with ~~mental retardation~~ intellectual or a developmental ~~disability~~ disabilities and employs one or more persons in direct services positions.

(8) "Responsible entity" means the following:

(a) The department of developmental disabilities in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff;

- (ii) A person who is an employee because the person is appointed to or employed by the department. 15041
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- (b) A county board of developmental disabilities in the case of either of the following: 15043
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- (i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff; 15045
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- (ii) A person who is an employee because the person is appointed to or employed by the county board. 15050
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- (c) A provider in the case of either of the following: 15052
- (i) A person who is an applicant because the person is under final consideration for a direct services position with the provider; 15053
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- (ii) A person who is an employee because the person is employed in a direct services position by the provider. 15056
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- (d) A subcontractor in the case of either of the following: 15058
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- (i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor; 15060
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- (ii) A person who is an employee because the person is employed in a direct services position by the subcontractor. 15063
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- (9) "Specialized services" means any program or service designed and operated to serve primarily individuals with ~~mental-retardation-intellectual~~ or ~~a developmental disability~~ 15065
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disabilities, including a program or service provided by an 15068
entity licensed or certified by the department of developmental 15069
disabilities. If there is a question as to whether a provider or 15070
subcontractor is providing specialized services, the provider or 15071
subcontractor may request that the director of developmental 15072
disabilities make a determination. The director's determination 15073
is final. 15074

(10) "Subcontractor" means a person to which both of the 15075
following apply: 15076

(a) The person has either of the following: 15077

(i) A subcontract with a provider to provide specialized 15078
services included in the contract between the provider and the 15079
department of developmental disabilities or a county board of 15080
developmental disabilities; 15081

(ii) A subcontract with another subcontractor to provide 15082
specialized services included in a subcontract between the other 15083
subcontractor and a provider or other subcontractor. 15084

(b) The person employs one or more persons in direct 15085
services positions. 15086

(B) A responsible entity shall not employ an applicant or 15087
continue to employ an employee if either of the following 15088
applies: 15089

(1) The applicant or employee fails to comply with 15090
division (D) (3) of this section. 15091

(2) Except as provided in rules adopted under this 15092
section, the applicant or employee is found by a criminal 15093
records check required by this section to have been convicted 15094
of, pleaded guilty to, or been found eligible for intervention 15095

in lieu of conviction for a disqualifying offense. 15096

(C) Before employing an applicant in a position for which 15097
a criminal records check is required by this section, a 15098
responsible entity shall require the applicant to submit a 15099
statement with the applicant's signature attesting that the 15100
applicant has not been convicted of, pleaded guilty to, or been 15101
found eligible for intervention in lieu of conviction for a 15102
disqualifying offense. The responsible entity also shall require 15103
the applicant to sign an agreement under which the applicant 15104
agrees to notify the responsible entity within fourteen calendar 15105
days if, while employed by the responsible entity, the applicant 15106
is formally charged with, is convicted of, pleads guilty to, or 15107
is found eligible for intervention in lieu of conviction for a 15108
disqualifying offense. The agreement shall provide that the 15109
applicant's failure to provide the notification may result in 15110
termination of the applicant's employment. 15111

(D) (1) As a condition of employing any applicant in a 15112
position for which a criminal records check is required by this 15113
section, a responsible entity shall request the superintendent 15114
of the bureau of criminal identification and investigation to 15115
conduct a criminal records check of the applicant. If rules 15116
adopted under this section require an employee to undergo a 15117
criminal records check, a responsible entity shall request the 15118
superintendent to conduct a criminal records check of the 15119
employee at times specified in the rules as a condition of the 15120
responsible entity's continuing to employ the employee in a 15121
position for which a criminal records check is required by this 15122
section. If an applicant or employee does not present proof that 15123
the applicant or employee has been a resident of this state for 15124
the five-year period immediately prior to the date upon which 15125
the criminal records check is requested, the responsible entity 15126

shall request that the superintendent obtain information from 15127
the federal bureau of investigation as a part of the criminal 15128
records check. If the applicant or employee presents proof that 15129
the applicant or employee has been a resident of this state for 15130
that five-year period, the responsible entity may request that 15131
the superintendent include information from the federal bureau 15132
of investigation in the criminal records check. For purposes of 15133
this division, an applicant or employee may provide proof of 15134
residency in this state by presenting, with a notarized 15135
statement asserting that the applicant or employee has been a 15136
resident of this state for that five-year period, a valid 15137
driver's license, notification of registration as an elector, a 15138
copy of an officially filed federal or state tax form 15139
identifying the applicant's or employee's permanent residence, 15140
or any other document the responsible entity considers 15141
acceptable. 15142

(2) A responsible entity shall do all of the following: 15143

(a) Provide to each applicant and employee for whom a 15144
criminal records check is required by this section a copy of the 15145
form prescribed pursuant to division (C) (1) of section 109.572 15146
of the Revised Code and a standard impression sheet to obtain 15147
fingerprint impressions prescribed pursuant to division (C) (2) 15148
of section 109.572 of the Revised Code; 15149

(b) Obtain the completed form and standard impression 15150
sheet from the applicant or employee; 15151

(c) Forward the completed form and standard impression 15152
sheet to the superintendent at the time the criminal records 15153
check is requested. 15154

(3) Any applicant or employee who receives pursuant to 15155

this division a copy of the form prescribed pursuant to division 15156
(C) (1) of section 109.572 of the Revised Code and a copy of the 15157
standard impression sheet prescribed pursuant to division (C) (2) 15158
of that section and who is requested to complete the form and 15159
provide a set of the applicant's or employee's fingerprint 15160
impressions shall complete the form or provide all the 15161
information necessary to complete the form and shall provide the 15162
standard impression sheet with the impressions of the 15163
applicant's or employee's fingerprints. 15164

(4) A responsible entity shall pay to the bureau of 15165
criminal identification and investigation the fee prescribed 15166
pursuant to division (C) (3) of section 109.572 of the Revised 15167
Code for each criminal records check requested and conducted 15168
pursuant to this section. 15169

(E) A responsible entity may request any other state or 15170
federal agency to supply the responsible entity with a written 15171
report regarding the criminal record of an applicant or 15172
employee. If an employee holds an occupational or professional 15173
license or other credentials, the responsible entity may request 15174
that the state or federal agency that regulates the employee's 15175
occupation or profession supply the responsible entity with a 15176
written report of any information pertaining to the employee's 15177
criminal record that the agency obtains in the course of 15178
conducting an investigation or in the process of renewing the 15179
employee's license or other credentials. The responsible entity 15180
may consider the reports when determining whether to employ the 15181
applicant or to continue to employ the employee. 15182

(F) As a condition of employing an applicant in a position 15183
for which a criminal records check is required by this section 15184
and that involves transporting individuals with ~~mental~~ 15185

~~retardation~~intellectual or developmental disabilities or 15186
operating a responsible entity's vehicles for any purpose, the 15187
responsible entity shall obtain the applicant's driving record 15188
from the bureau of motor vehicles. If rules adopted under this 15189
section require a responsible entity to obtain an employee's 15190
driving record, the responsible entity shall obtain the 15191
employee's driving record from the bureau at times specified in 15192
the rules as a condition of continuing to employ the employee. 15193
The responsible entity may consider the applicant's or 15194
employee's driving record when determining whether to employ the 15195
applicant or to continue to employ the employee. 15196

(G) A responsible entity may employ an applicant 15197
conditionally pending receipt of a report regarding the 15198
applicant requested under this section. The responsible entity 15199
shall terminate the applicant's employment if it is determined 15200
from a report that the applicant failed to inform the 15201
responsible entity that the applicant had been convicted of, 15202
pleaded guilty to, or been found eligible for intervention in 15203
lieu of conviction for a disqualifying offense. 15204

(H) A responsible entity may charge an applicant a fee for 15205
costs the responsible entity incurs in obtaining a report 15206
regarding the applicant under this section if the responsible 15207
entity notifies the applicant of the amount of the fee at the 15208
time of the applicant's initial application for employment and 15209
that, unless the fee is paid, the responsible entity will not 15210
consider the applicant for employment. The fee shall not exceed 15211
the amount of the fee, if any, the responsible entity pays for 15212
the report. 15213

(I) (1) Any report obtained pursuant to this section is not 15214
a public record for purposes of section 149.43 of the Revised 15215

Code and shall not be made available to any person, other than 15216
the following: 15217

(a) The applicant or employee who is the subject of the 15218
report or the applicant's or employee's representative; 15219

(b) The responsible entity that requested the report or 15220
its representative; 15221

(c) The department if a county board, provider, or 15222
subcontractor is the responsible entity that requested the 15223
report and the department requests the responsible entity to 15224
provide a copy of the report to the department; 15225

(d) A county board if a provider or subcontractor is the 15226
responsible entity that requested the report and the county 15227
board requests the responsible entity to provide a copy of the 15228
report to the county board; 15229

(e) Any court, hearing officer, or other necessary 15230
individual involved in a case dealing with any of the following: 15231

(i) The denial of employment to the applicant or employee; 15232

(ii) The denial, suspension, or revocation of a 15233
certificate under section 5123.166 or 5123.45 of the Revised 15234
Code; 15235

(iii) A civil or criminal action regarding the medicaid 15236
program or a program the department administers. 15237

(2) An applicant or employee for whom the responsible 15238
entity has obtained reports under this section may submit a 15239
written request to the responsible entity to have copies of the 15240
reports sent to any state agency, entity of local government, or 15241
private entity. The applicant or employee shall specify in the 15242
request the agencies or entities to which the copies are to be 15243

sent. On receiving the request, the responsible entity shall 15244
send copies of the reports to the agencies or entities 15245
specified. 15246

(3) A responsible entity may request that a state agency, 15247
entity of local government, or private entity send copies to the 15248
responsible entity of any report regarding a records check or 15249
criminal records check that the agency or entity possesses, if 15250
the responsible entity obtains the written consent of the 15251
individual who is the subject of the report. 15252

(4) A responsible entity shall provide each applicant and 15253
employee with a copy of any report obtained about the applicant 15254
or employee under this section. 15255

(J) The director of developmental disabilities shall adopt 15256
rules in accordance with Chapter 119. of the Revised Code to 15257
implement this section. 15258

(1) The rules may do the following: 15259

(a) Require employees to undergo criminal records checks 15260
under this section; 15261

(b) Require responsible entities to obtain the driving 15262
records of employees under this section; 15263

(c) If the rules require employees to undergo criminal 15264
records checks, require responsible entities to obtain the 15265
driving records of employees, or both, exempt one or more 15266
classes of employees from the requirements. 15267

(2) The rules shall do both of the following: 15268

(a) If the rules require employees to undergo criminal 15269
records checks, require responsible entities to obtain the 15270
driving records of employees, or both, specify the times at 15271

which the criminal records checks are to be conducted and the 15272
driving records are to be obtained; 15273

(b) Specify circumstances under which a responsible entity 15274
may employ an applicant or employee who is found by a criminal 15275
records check required by this section to have been convicted 15276
of, pleaded guilty to, or been found eligible for intervention 15277
in lieu of conviction for a disqualifying offense but meets 15278
standards in regard to rehabilitation set by the director. 15279

Sec. 5123.092. (A) There is hereby established at each 15280
institution and branch institution under the control of the 15281
department of developmental disabilities a citizen's advisory 15282
council consisting of thirteen members. At least seven of the 15283
members shall be persons who are not providers of ~~mental-~~ 15284
~~retardation~~ services for persons with intellectual disabilities. 15285
Each council shall include parents or other relatives of 15286
residents of institutions under the control of the department, 15287
community leaders, professional persons in relevant fields, and 15288
persons who have an interest in or knowledge of ~~mental-~~ 15289
~~retardation~~ intellectual disabilities. The managing officer of 15290
the institution shall be a nonvoting member of the council. 15291

(B) The director of developmental disabilities shall be 15292
the appointing authority for the voting members of each 15293
citizen's advisory council. Each time the term of a voting 15294
member expires, the remaining members of the council shall 15295
recommend to the director one or more persons to serve on the 15296
council. The director may accept a nominee of the council or 15297
reject the nominee or nominees. If the director rejects the 15298
nominee or nominees, the remaining members of the advisory 15299
council shall further recommend to the director one or more 15300
other persons to serve on the advisory council. This procedure 15301

shall continue until a member is appointed to the advisory council. 15302
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Each advisory council shall elect from its appointed members a chairperson, vice-chairperson, and a secretary to serve for terms of one year. Advisory council officers shall not serve for more than two consecutive terms in the same office. A majority of the advisory council members constitutes a quorum. 15304
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(C) Terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds. No member shall serve more than two consecutive terms, except that any former member may be appointed if one year or longer has elapsed since the member served two consecutive terms. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any vacancy shall be filled in the same manner in which the original appointment was made, and the appointee to a vacancy in an unexpired term shall serve the balance of the term of the original appointee. Any 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. 15309
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(D) Members shall be expected to attend all meetings of the advisory council. Unexcused absence from two successive regularly scheduled meetings shall be considered prima-facie evidence of intent not to continue as a member. The chairperson of the board shall, after a member has been absent for two successive regularly scheduled meetings, direct a letter to the member asking if the member wishes to remain in membership. If an affirmative reply is received, the member shall be retained 15324
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as a member except that, if, after having expressed a desire to remain a member, the member then misses a third successive regularly scheduled meeting without being excused, the chairperson shall terminate the member's membership.

(E) A citizen's advisory council shall meet six times annually, or more frequently if three council members request the chairperson to call a meeting. The council shall keep minutes of each meeting and shall submit them to the managing officer of the institution with which the council is associated and the department of developmental disabilities.

(F) Members of citizen's advisory councils shall receive no compensation for their services, except that they shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties by the institution with which they are associated from funds allocated to it, provided that reimbursement for those expenses shall not exceed limits imposed upon the department of developmental disabilities by administrative rules regulating travel within this state.

(G) The councils shall have reasonable access to all patient treatment and living areas and records of the institution, except those records of a strictly personal or confidential nature. The councils shall have access to a patient's personal records with the consent of the patient or the patient's legal guardian or, if the patient is a minor, with the consent of the parent or legal guardian of the patient.

(H) As used in this section, "branch institution" means a facility that is located apart from an institution and is under the control of the managing officer of the institution.

Sec. 5123.093. The citizen's advisory councils established

under section 5123.092 of the Revised Code shall: 15361

(A) Transmit verbal or written information from any person 15362
or organization associated with the institution or within the 15363
community, that an advisory council considers important, to the 15364
director of developmental disabilities; 15365

(B) Review the records of all applicants to any 15366
unclassified position at the institution, except for resident 15367
physician positions filled under section 5123.11 of the Revised 15368
Code; 15369

(C) Review and evaluate institutional employee training 15370
and continuing education programs; 15371

(D) On or before the thirty-first day of January of each 15372
year, submit a written report to the director of developmental 15373
disabilities regarding matters affecting the institution 15374
including, but not limited to, allegations of dehumanizing 15375
practices and violations of individual or legal rights; 15376

(E) Review institutional budgets, programs, services, and 15377
planning; 15378

(F) Develop and maintain relationships within the 15379
community with community ~~mental-retardation-intellectual~~ and 15380
developmental disabilities organizations; 15381

(G) Participate in the formulation of the institution's 15382
objectives, administrative procedures, program philosophy, and 15383
long range goals; 15384

(H) Bring any matter that an advisory council considers 15385
important to the attention of the joint council on developmental 15386
disabilities and the director of developmental disabilities; 15387

(I) Recommend to the director of developmental 15388

disabilities persons for appointment to citizen's advisory 15389
councils; 15390

(J) Adopt any rules or procedures necessary to carry out 15391
this section. 15392

The chairperson of the advisory council or the 15393
chairperson's designee shall be notified within twenty-four 15394
hours of any alleged incident of abuse to a resident or staff 15395
member by anyone. Incidents of resident or staff abuse shall 15396
include, but not be limited to, sudden deaths, accidents, 15397
suicides, attempted suicides, injury caused by other persons, 15398
alleged criminal acts, errors in prescribing or administering 15399
medication, theft from clients, fires, epidemic disease, 15400
administering unprescribed drugs, unauthorized use of restraint, 15401
withholding of information concerning alleged abuse, neglect, or 15402
any deprivation of rights as defined in Chapter 5122. or 5123. 15403
of the Revised Code. 15404

Sec. 5123.122. Notwithstanding section 5121.04 of the 15405
Revised Code and except as provided in section 5123.194 of the 15406
Revised Code, the liable relative of a ~~mentally retarded~~ person 15407
with an intellectual or ~~developmentally disabled person~~ 15408
developmental disability who is a minor receiving residential 15409
services pursuant to a contract entered into with the department 15410
of developmental disabilities under section 5123.18 of the 15411
Revised Code shall be charged for the minor's support the 15412
percentage of a base support rate determined in accordance with 15413
division (B) (2) of section 5121.04 of the Revised Code. 15414

Sec. 5123.165. (A) Except as provided in division (B) of 15415
this section, no person or government entity may provide 15416
supported living to an individual with ~~mental retardation~~ an 15417
intellectual or ~~a~~ developmental disability if the person or 15418

government entity also provides the individual a residence. 15419

(B) A person may provide supported living to an individual 15420
with ~~mental retardation~~ an intellectual or ~~a developmental~~ 15421
disability even though the person also provides the individual a 15422
residence if either of the following apply: 15423

(1) The person also resides in the residence with the 15424
individual and does not provide at any one time supported living 15425
to more than a total of three individuals with ~~mental~~ 15426
~~retardation~~ intellectual or ~~a developmental disability~~ 15427
disabilities who reside in that residence; 15428

(2) The person is an association of family members related 15429
to two or more of the individuals with ~~mental retardation~~ 15430
intellectual or ~~a developmental disability~~ disabilities who 15431
reside in the residence and does not provide at any one time 15432
supported living to more than a total of four individuals with 15433
~~mental retardation~~ intellectual or ~~a developmental disability~~ 15434
disabilities who reside in that residence. 15435

Sec. 5123.169. (A) The director of developmental 15436
disabilities shall not issue a supported living certificate to 15437
an applicant or renew an applicant's supported living 15438
certificate if either of the following applies: 15439

(1) The applicant fails to comply with division (C) (2) of 15440
this section; 15441

(2) Except as provided in rules adopted under section 15442
5123.1610 of the Revised Code, the applicant is found by a 15443
criminal records check required by this section to have been 15444
convicted of, pleaded guilty to, or been found eligible for 15445
intervention in lieu of conviction for a disqualifying offense. 15446

(B) Before issuing a supported living certificate to an 15447

applicant or renewing an applicant's supported living 15448
certificate, the director shall require the applicant to submit 15449
a statement with the applicant's signature attesting that the 15450
applicant has not been convicted of, pleaded guilty to, or been 15451
found eligible for intervention in lieu of conviction for a 15452
disqualifying offense. The director also shall require the 15453
applicant to sign an agreement under which the applicant agrees 15454
to notify the director within fourteen calendar days if, while 15455
holding a supported living certificate, the applicant is 15456
formally charged with, is convicted of, pleads guilty to, or is 15457
found eligible for intervention in lieu of conviction for a 15458
disqualifying offense. The agreement shall provide that the 15459
applicant's failure to provide the notification may result in 15460
action being taken by the director against the applicant under 15461
section 5123.166 of the Revised Code. 15462

(C) (1) As a condition of receiving a supported living 15463
certificate or having a supported living certificate renewed, an 15464
applicant shall request the superintendent of the bureau of 15465
criminal identification and investigation to conduct a criminal 15466
records check of the applicant. If an applicant does not present 15467
proof to the director that the applicant has been a resident of 15468
this state for the five-year period immediately prior to the 15469
date that the applicant applies for issuance or renewal of the 15470
supported living certificate, the director shall require the 15471
applicant to request that the superintendent obtain information 15472
from the federal bureau of investigation as a part of the 15473
criminal records check. If the applicant presents proof to the 15474
director that the applicant has been a resident of this state 15475
for that five-year period, the director may require the 15476
applicant to request that the superintendent include information 15477
from the federal bureau of investigation in the criminal records 15478

check. For purposes of this division, an applicant may provide 15479
proof of residency in this state by presenting, with a notarized 15480
statement asserting that the applicant has been a resident of 15481
this state for that five-year period, a valid driver's license, 15482
notification of registration as an elector, a copy of an 15483
officially filed federal or state tax form identifying the 15484
applicant's permanent residence, or any other document the 15485
director considers acceptable. 15486

(2) Each applicant shall do all of the following: 15487

(a) Obtain a copy of the form prescribed pursuant to 15488
division (C) (1) of section 109.572 of the Revised Code and a 15489
standard impression sheet prescribed pursuant to division (C) (2) 15490
of section 109.572 of the Revised Code; 15491

(b) Complete the form and provide the applicant's 15492
fingerprint impressions on the standard impression sheet; 15493

(c) Forward the completed form and standard impression 15494
sheet to the superintendent at the time the criminal records 15495
check is requested; 15496

(d) Instruct the superintendent to submit the completed 15497
report of the criminal records check directly to the director; 15498

(e) Pay to the bureau of criminal identification and 15499
investigation the fee prescribed pursuant to division (C) (3) of 15500
section 109.572 of the Revised Code for each criminal records 15501
check of the applicant requested and conducted pursuant to this 15502
section. 15503

(D) The director may request any other state or federal 15504
agency to supply the director with a written report regarding 15505
the criminal record of an applicant. The director may consider 15506
the reports when determining whether to issue a supported living 15507

certificate to the applicant or to renew an applicant's supported living certificate. 15508
15509

(E) An applicant who seeks to be an independent provider 15510
or is an independent provider seeking renewal of the applicant's 15511
supported living certificate shall obtain the applicant's 15512
driving record from the bureau of motor vehicles and provide a 15513
copy of the record to the director if the supported living that 15514
the applicant will provide involves transporting individuals 15515
with ~~mental retardation~~ intellectual or developmental 15516
disabilities. The director may consider the applicant's driving 15517
record when determining whether to issue the applicant a 15518
supported living certificate or to renew the applicant's 15519
supported living certificate. 15520

(F) (1) A report obtained pursuant to this section is not a 15521
public record for purposes of section 149.43 of the Revised Code 15522
and shall not be made available to any person, other than the 15523
following: 15524

(a) The applicant who is the subject of the report or the 15525
applicant's representative; 15526

(b) The director or the director's representative; 15527

(c) Any court, hearing officer, or other necessary 15528
individual involved in a case dealing with any of the following: 15529

(i) The denial of a supported living certificate or 15530
refusal to renew a supported living certificate; 15531

(ii) The denial, suspension, or revocation of a 15532
certificate under section 5123.45 of the Revised Code; 15533

(iii) A civil or criminal action regarding the medicaid 15534
program. 15535

(2) An applicant for whom the director has obtained 15536
reports under this section may submit a written request to the 15537
director to have copies of the reports sent to any person or 15538
state or local government entity. The applicant shall specify in 15539
the request the person or entities to which the copies are to be 15540
sent. On receiving the request, the director shall send copies 15541
of the reports to the persons or entities specified. 15542

(3) The director may request that a person or state or 15543
local government entity send copies to the director of any 15544
report regarding a records check or criminal records check that 15545
the person or entity possesses, if the director obtains the 15546
written consent of the individual who is the subject of the 15547
report. 15548

(4) The director shall provide each applicant with a copy 15549
of any report obtained about the applicant under this section. 15550

Sec. 5123.17. The department of developmental disabilities 15551
may provide for the custody, supervision, control, treatment, 15552
and training of persons with ~~mental retardation~~ intellectual 15553
disabilities or a ~~developmental disability~~ disabilities 15554
elsewhere than within the enclosure of an institution under its 15555
jurisdiction, if the department so determines with respect to 15556
any individual or group of individuals. In all such cases, the 15557
department shall ensure adequate and proper supervision for the 15558
protection of those persons and of the public. 15559

Sec. 5123.171. As used in this section, "respite care" 15560
means appropriate, short-term, temporary care provided to a 15561
~~mentally retarded person~~ person with an intellectual or ~~developmentally~~ 15562
~~disabled person~~ developmental disability to sustain the family 15563
structure or to meet planned or emergency needs of the family. 15564

The department of developmental disabilities shall provide 15565
respite care services to persons with ~~mental retardation-~~ 15566
intellectual or a developmental disability disabilities for the 15567
purpose of promoting self-sufficiency and normalization, 15568
preventing or reducing inappropriate institutional care, and 15569
furthering the unity of the family by enabling the family to 15570
meet the special needs of a ~~mentally retarded person with an~~ 15571
intellectual or developmentally disabled person developmental 15572
disability. 15573

In order to be eligible for respite care services under 15574
this section, the ~~mentally retarded or developmentally disabled-~~ 15575
person with an intellectual or developmental disability must be 15576
in need of habilitation services as defined in section 5126.01 15577
of the Revised Code. 15578

Respite care may be provided in a residential facility 15579
licensed under section 5123.19 of the Revised Code, including a 15580
residential facility certified as an ICF/IID, and a respite care 15581
home certified under section 5126.05 of the Revised Code. 15582

The department shall develop a system for locating vacant 15583
beds that are available for respite care and for making 15584
information on vacant beds available to users of respite care 15585
services. ICFs/IID shall report vacant beds to the department 15586
but shall not be required to accept respite care clients. 15587

The director of developmental disabilities shall adopt, 15588
and may amend or rescind, rules in accordance with Chapter 119. 15589
of the Revised Code for both of the following: 15590

(A) Certification by county boards of developmental 15591
disabilities of respite care homes; 15592

(B) Provision of respite care services authorized by this 15593

section. Rules adopted under this division shall establish all 15594
of the following: 15595

(1) A formula for distributing funds appropriated for 15596
respite care services; 15597

(2) Standards for supervision, training, and quality 15598
control in the provision of respite care services; 15599

(3) Eligibility criteria for emergency respite care 15600
services. 15601

Sec. 5123.18. ~~(A)~~ The department of developmental 15602
disabilities may enter into a contract with a person or 15603
government agency to provide residential services to individuals 15604
with ~~mental retardation~~ intellectual or developmental 15605
disabilities in need of residential services. To be eligible to 15606
enter into a contract with the department under this section, a 15607
person or government entity and the home in which the 15608
residential services are provided must meet all applicable 15609
standards for licensing or certification by the appropriate 15610
government entity. 15611

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 15612
of the Revised Code: 15613

(1) "Independent living arrangement" means an arrangement 15614
in which a ~~mentally retarded~~ person with an intellectual 15615
disability or ~~developmentally disabled~~ a person with a 15616
developmental disability resides in an individualized setting 15617
chosen by the person or the person's guardian, which is not 15618
dedicated principally to the provision of residential services 15619
for ~~mentally retarded or developmentally disabled persons~~ with 15620
intellectual or developmental disabilities, and for which no 15621
financial support is received for rendering such service from 15622

any governmental agency by a provider of residential services. 15623

(2) "Licensee" means the person or government agency that 15624
has applied for a license to operate a residential facility and 15625
to which the license was issued under this section. 15626

(3) "Political subdivision" means a municipal corporation, 15627
county, or township. 15628

(4) "Related party" has the same meaning as in section 15629
5123.16 of the Revised Code except that "provider" as used in 15630
the definition of "related party" means a person or government 15631
entity that held or applied for a license to operate a 15632
residential facility, rather than a person or government entity 15633
certified to provide supported living. 15634

(5) (a) Except as provided in division (A) (5) (b) of this 15635
section, "residential facility" means a home or facility, 15636
including an ICF/IID, in which an individual with ~~mental-~~ 15637
~~retardation~~ an intellectual or a developmental disability 15638
resides. 15639

(b) "Residential facility" does not mean any of the 15640
following: 15641

(i) The home of a relative or legal guardian in which an 15642
individual with ~~mental-retardation~~ an intellectual or a 15643
developmental disability resides; 15644

(ii) A respite care home certified under section 5126.05 15645
of the Revised Code; 15646

(iii) A county home or district home operated pursuant to 15647
Chapter 5155. of the Revised Code; 15648

(iv) A dwelling in which the only residents with ~~mental-~~ 15649
~~retardation~~ intellectual or developmental disabilities are in 15650

independent living arrangements or are being provided supported living. 15651
15652

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, 5119.33, or division (A) (9) (b) of section 5119.34 of the Revised Code. 15653
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(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered. 15659
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(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the 15672
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director's authority under this chapter regarding residential 15681
facilities. In the director's selection and administration of 15682
the sanction to be imposed, all of the following apply: 15683

(1) The director may deny, refuse to renew, or revoke a 15684
license, if the director determines that the applicant or 15685
licensee has demonstrated a pattern of serious noncompliance or 15686
that a violation creates a substantial risk to the health and 15687
safety of residents of a residential facility. 15688

(2) The director may terminate a license if more than 15689
twelve consecutive months have elapsed since the residential 15690
facility was last occupied by a resident or a notice required by 15691
division (K) of this section is not given. 15692

(3) The director may issue an order for the suspension of 15693
admissions to a facility for any violation that may result in 15694
sanctions under division (D) (1) of this section and for any 15695
other violation specified in rules adopted under division (H) (2) 15696
of this section. If the suspension of admissions is imposed for 15697
a violation that may result in sanctions under division (D) (1) 15698
of this section, the director may impose the suspension before 15699
providing an opportunity for an adjudication under Chapter 119. 15700
of the Revised Code. The director shall lift an order for the 15701
suspension of admissions when the director determines that the 15702
violation that formed the basis for the order has been 15703
corrected. 15704

(4) The director may order the placement of a monitor at a 15705
residential facility for any violation specified in rules 15706
adopted under division (H) (2) of this section. The director 15707
shall lift the order when the director determines that the 15708
violation that formed the basis for the order has been 15709
corrected. 15710

(5) If the director determines that two or more 15711
residential facilities owned or operated by the same person or 15712
government entity are not being operated in compliance with a 15713
provision of this chapter that applies to residential facilities 15714
or the rules adopted under such a provision, and the director's 15715
findings are based on the same or a substantially similar 15716
action, practice, circumstance, or incident that creates a 15717
substantial risk to the health and safety of the residents, the 15718
director shall conduct a survey as soon as practicable at each 15719
residential facility owned or operated by that person or 15720
government entity. The director may take any action authorized 15721
by this section with respect to any facility found to be 15722
operating in violation of a provision of this chapter that 15723
applies to residential facilities or the rules adopted under 15724
such a provision. 15725

(6) When the director initiates license revocation 15726
proceedings, no opportunity for submitting a plan of correction 15727
shall be given. The director shall notify the licensee by letter 15728
of the initiation of the proceedings. The letter shall list the 15729
deficiencies of the residential facility and inform the licensee 15730
that no plan of correction will be accepted. The director shall 15731
also send a copy of the letter to the county board of 15732
developmental disabilities. The county board shall send a copy 15733
of the letter to each of the following: 15734

(a) Each resident who receives services from the licensee; 15735

(b) The guardian of each resident who receives services 15736
from the licensee if the resident has a guardian; 15737

(c) The parent or guardian of each resident who receives 15738
services from the licensee if the resident is a minor. 15739

(7) Pursuant to rules which shall be adopted in accordance 15740
with Chapter 119. of the Revised Code, the director may order 15741
the immediate removal of residents from a residential facility 15742
whenever conditions at the facility present an immediate danger 15743
of physical or psychological harm to the residents. 15744

(8) In determining whether a residential facility is being 15745
operated in compliance with a provision of this chapter that 15746
applies to residential facilities or the rules adopted under 15747
such a provision, or whether conditions at a residential 15748
facility present an immediate danger of physical or 15749
psychological harm to the residents, the director may rely on 15750
information obtained by a county board of developmental 15751
disabilities or other governmental agencies. 15752

(9) In proceedings initiated to deny, refuse to renew, or 15753
revoke licenses, the director may deny, refuse to renew, or 15754
revoke a license regardless of whether some or all of the 15755
deficiencies that prompted the proceedings have been corrected 15756
at the time of the hearing. 15757

(E) The director shall establish a program under which 15758
public notification may be made when the director has initiated 15759
license revocation proceedings or has issued an order for the 15760
suspension of admissions, placement of a monitor, or removal of 15761
residents. The director shall adopt rules in accordance with 15762
Chapter 119. of the Revised Code to implement this division. The 15763
rules shall establish the procedures by which the public 15764
notification will be made and specify the circumstances for 15765
which the notification must be made. The rules shall require 15766
that public notification be made if the director has taken 15767
action against the facility in the eighteen-month period 15768
immediately preceding the director's latest action against the 15769

facility and the latest action is being taken for the same or a 15770
substantially similar violation of a provision of this chapter 15771
that applies to residential facilities or the rules adopted 15772
under such a provision. The rules shall specify a method for 15773
removing or amending the public notification if the director's 15774
action is found to have been unjustified or the violation at the 15775
residential facility has been corrected. 15776

(F) (1) Except as provided in division (F) (2) of this 15777
section, appeals from proceedings initiated to impose a sanction 15778
under division (D) of this section shall be conducted in 15779
accordance with Chapter 119. of the Revised Code. 15780

(2) Appeals from proceedings initiated to order the 15781
suspension of admissions to a facility shall be conducted in 15782
accordance with Chapter 119. of the Revised Code, unless the 15783
order was issued before providing an opportunity for an 15784
adjudication, in which case all of the following apply: 15785

(a) The licensee may request a hearing not later than ten 15786
days after receiving the notice specified in section 119.07 of 15787
the Revised Code. 15788

(b) If a timely request for a hearing that includes the 15789
licensee's current address is made, the hearing shall commence 15790
not later than thirty days after the department receives the 15791
request. 15792

(c) After commencing, the hearing shall continue 15793
uninterrupted, except for Saturdays, Sundays, and legal 15794
holidays, unless other interruptions are agreed to by the 15795
licensee and the director. 15796

(d) If the hearing is conducted by a hearing examiner, the 15797
hearing examiner shall file a report and recommendations not 15798

later than ten days after the last of the following: 15799

(i) The close of the hearing; 15800

(ii) If a transcript of the proceedings is ordered, the 15801
hearing examiner receives the transcript; 15802

(iii) If post-hearing briefs are timely filed, the hearing 15803
examiner receives the briefs. 15804

(e) A copy of the written report and recommendation of the 15805
hearing examiner shall be sent, by certified mail, to the 15806
licensee and the licensee's attorney, if applicable, not later 15807
than five days after the report is filed. 15808

(f) Not later than five days after the hearing examiner 15809
files the report and recommendations, the licensee may file 15810
objections to the report and recommendations. 15811

(g) Not later than fifteen days after the hearing examiner 15812
files the report and recommendations, the director shall issue 15813
an order approving, modifying, or disapproving the report and 15814
recommendations. 15815

(h) Notwithstanding the pendency of the hearing, the 15816
director shall lift the order for the suspension of admissions 15817
when the director determines that the violation that formed the 15818
basis for the order has been corrected. 15819

(G) Neither a person or government agency whose 15820
application for a license to operate a residential facility is 15821
denied nor a related party of the person or government agency 15822
may apply for a license to operate a residential facility before 15823
the date that is one year after the date of the denial. Neither 15824
a licensee whose residential facility license is revoked nor a 15825
related party of the licensee may apply for a residential 15826

facility license before the date that is five years after the 15827
date of the revocation. 15828

(H) In accordance with Chapter 119. of the Revised Code, 15829
the director shall adopt and may amend and rescind rules for 15830
licensing and regulating the operation of residential 15831
facilities. The rules for residential facilities that are 15832
ICFs/IID may differ from those for other residential facilities. 15833
The rules shall establish and specify the following: 15834

(1) Procedures and criteria for issuing and renewing 15835
licenses, including procedures and criteria for determining the 15836
length of the licensing period that the director must specify 15837
for each license when it is issued or renewed; 15838

(2) Procedures and criteria for denying, refusing to 15839
renew, terminating, and revoking licenses and for ordering the 15840
suspension of admissions to a facility, placement of a monitor 15841
at a facility, and the immediate removal of residents from a 15842
facility; 15843

(3) Fees for issuing and renewing licenses, which shall be 15844
deposited into the program fee fund created under section 15845
5123.033 of the Revised Code; 15846

(4) Procedures for surveying residential facilities; 15847

(5) Requirements for the training of residential facility 15848
personnel; 15849

(6) Classifications for the various types of residential 15850
facilities; 15851

(7) Certification procedures for licensees and management 15852
contractors that the director determines are necessary to ensure 15853
that they have the skills and qualifications to properly operate 15854

or manage residential facilities; 15855

(8) The maximum number of persons who may be served in a 15856
particular type of residential facility; 15857

(9) Uniform procedures for admission of persons to and 15858
transfers and discharges of persons from residential facilities; 15859

(10) Other standards for the operation of residential 15860
facilities and the services provided at residential facilities; 15861

(11) Procedures for waiving any provision of any rule 15862
adopted under this section. 15863

(I) (1) Before issuing a license, the director shall 15864
conduct a survey of the residential facility for which 15865
application is made. The director shall conduct a survey of each 15866
licensed residential facility at least once during the period 15867
the license is valid and may conduct additional inspections as 15868
needed. A survey includes but is not limited to an on-site 15869
examination and evaluation of the residential facility, its 15870
personnel, and the services provided there. The director may 15871
assign to a county board of developmental disabilities the 15872
responsibility to conduct any survey or inspection under this 15873
section. 15874

(2) In conducting surveys, the director shall be given 15875
access to the residential facility; all records, accounts, and 15876
any other documents related to the operation of the facility; 15877
the licensee; the residents of the facility; and all persons 15878
acting on behalf of, under the control of, or in connection with 15879
the licensee. The licensee and all persons on behalf of, under 15880
the control of, or in connection with the licensee shall 15881
cooperate with the director in conducting the survey. 15882

(3) Following each survey, the director shall provide the 15883

licensee with a report listing the date of the survey, any 15884
citations issued as a result of the survey, and the statutes or 15885
rules that purportedly have been violated and are the bases of 15886
the citations. The director shall also do both of the following: 15887

(a) Specify a date by which the licensee may appeal any of 15888
the citations; 15889

(b) When appropriate, specify a timetable within which the 15890
licensee must submit a plan of correction describing how the 15891
problems specified in the citations will be corrected and, the 15892
date by which the licensee anticipates the problems will be 15893
corrected. 15894

(4) If the director initiates a proceeding to revoke a 15895
license, the director shall include the report required by 15896
division (I)(3) of this section with the notice of the proposed 15897
revocation the director sends to the licensee. In this 15898
circumstance, the licensee may not submit a plan of correction. 15899

(5) After a plan of correction is submitted, the director 15900
shall approve or disapprove the plan. If the plan of correction 15901
is approved, a copy of the approved plan shall be provided, not 15902
later than five business days after it is approved, to any 15903
person or government entity who requests it and made available 15904
on the internet web site maintained by the department of 15905
developmental disabilities. If the plan of correction is not 15906
approved and the director initiates a proceeding to revoke the 15907
license, a copy of the survey report shall be provided to any 15908
person or government entity that requests it and shall be made 15909
available on the internet web site maintained by the department. 15910

(6) The director shall initiate disciplinary action 15911
against any department employee who notifies or causes the 15912

notification to any unauthorized person of an unannounced survey 15913
of a residential facility by an authorized representative of the 15914
department. 15915

(J) In addition to any other information which may be 15916
required of applicants for a license pursuant to this section, 15917
the director shall require each applicant to provide a copy of 15918
an approved plan for a proposed residential facility pursuant to 15919
section 5123.042 of the Revised Code. This division does not 15920
apply to renewal of a license or to an applicant for an initial 15921
or modified license who meets the requirements of section 15922
5123.197 of the Revised Code. 15923

(K) A licensee shall notify the owner of the building in 15924
which the licensee's residential facility is located of any 15925
significant change in the identity of the licensee or management 15926
contractor before the effective date of the change if the 15927
licensee is not the owner of the building. 15928

Pursuant to rules which shall be adopted in accordance 15929
with Chapter 119. of the Revised Code, the director may require 15930
notification to the department of any significant change in the 15931
ownership of a residential facility or in the identity of the 15932
licensee or management contractor. If the director determines 15933
that a significant change of ownership is proposed, the director 15934
shall consider the proposed change to be an application for 15935
development by a new operator pursuant to section 5123.042 of 15936
the Revised Code and shall advise the applicant within sixty 15937
days of the notification that the current license shall continue 15938
in effect or a new license will be required pursuant to this 15939
section. If the director requires a new license, the director 15940
shall permit the facility to continue to operate under the 15941
current license until the new license is issued, unless the 15942

current license is revoked, refused to be renewed, or terminated 15943
in accordance with Chapter 119. of the Revised Code. 15944

(L) A county board of developmental disabilities and any 15945
interested person may file complaints alleging violations of 15946
statute or department rule relating to residential facilities 15947
with the department. All complaints shall be in writing and 15948
shall state the facts constituting the basis of the allegation. 15949
The department shall not reveal the source of any complaint 15950
unless the complainant agrees in writing to waive the right to 15951
confidentiality or until so ordered by a court of competent 15952
jurisdiction. 15953

The department shall adopt rules in accordance with 15954
Chapter 119. of the Revised Code establishing procedures for the 15955
receipt, referral, investigation, and disposition of complaints 15956
filed with the department under this division. 15957

(M) The department shall establish procedures for the 15958
notification of interested parties of the transfer or interim 15959
care of residents from residential facilities that are closing 15960
or are losing their license. 15961

(N) Before issuing a license under this section to a 15962
residential facility that will accommodate at any time more than 15963
~~one mentally retarded individual with an intellectual or~~ 15964
~~developmentally disabled individual developmental disability,~~ 15965
the director shall, by first class mail, notify the following: 15966

(1) If the facility will be located in a municipal 15967
corporation, the clerk of the legislative authority of the 15968
municipal corporation; 15969

(2) If the facility will be located in unincorporated 15970
territory, the clerk of the appropriate board of county 15971

commissioners and the fiscal officer of the appropriate board of township trustees. 15972
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The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance. 15974
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Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license. 15978
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(0) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with ~~mental retardation~~ intellectual or ~~a developmental disability~~ disabilities as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone. 15991
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(P) Any person may operate a licensed residential facility 16002
that provides room and board, personal care, habilitation 16003
services, and supervision in a family setting for at least nine 16004
but not more than sixteen persons with ~~mental retardation~~ 16005
intellectual or ~~a developmental disability~~ disabilities as a 16006
permitted use in any multiple-family residential district or 16007
zone of any political subdivision, except that a political 16008
subdivision that has enacted a zoning ordinance or resolution 16009
establishing planned unit development districts may exclude 16010
these residential facilities from those districts, and a 16011
political subdivision that has enacted a zoning ordinance or 16012
resolution may regulate these residential facilities in 16013
multiple-family residential districts or zones as a 16014
conditionally permitted use or special exception, in either 16015
case, under reasonable and specific standards and conditions set 16016
out in the zoning ordinance or resolution to: 16017

(1) Require the architectural design and site layout of 16018
the residential facility and the location, nature, and height of 16019
any walls, screens, and fences to be compatible with adjoining 16020
land uses and the residential character of the neighborhood; 16021

(2) Require compliance with yard, parking, and sign 16022
regulation; 16023

(3) Limit excessive concentration of these residential 16024
facilities. 16025

(Q) This section does not prohibit a political subdivision 16026
from applying to residential facilities nondiscriminatory 16027
regulations requiring compliance with health, fire, and safety 16028
regulations and building standards and regulations. 16029

(R) Divisions (O) and (P) of this section are not 16030

applicable to municipal corporations that had in effect on June 16031
15, 1977, an ordinance specifically permitting in residential 16032
zones licensed residential facilities by means of permitted 16033
uses, conditional uses, or special exception, so long as such 16034
ordinance remains in effect without any substantive 16035
modification. 16036

(S) (1) The director may issue an interim license to 16037
operate a residential facility to an applicant for a license 16038
under this section if either of the following is the case: 16039

(a) The director determines that an emergency exists 16040
requiring immediate placement of persons in a residential 16041
facility, that insufficient licensed beds are available, and 16042
that the residential facility is likely to receive a permanent 16043
license under this section within thirty days after issuance of 16044
the interim license. 16045

(b) The director determines that the issuance of an 16046
interim license is necessary to meet a temporary need for a 16047
residential facility. 16048

(2) To be eligible to receive an interim license, an 16049
applicant must meet the same criteria that must be met to 16050
receive a permanent license under this section, except for any 16051
differing procedures and time frames that may apply to issuance 16052
of a permanent license. 16053

(3) An interim license shall be valid for thirty days and 16054
may be renewed by the director for a period not to exceed one 16055
hundred fifty days. 16056

(4) The director shall adopt rules in accordance with 16057
Chapter 119. of the Revised Code as the director considers 16058
necessary to administer the issuance of interim licenses. 16059

(T) Notwithstanding rules adopted pursuant to this section 16060
establishing the maximum number of persons who may be served in 16061
a particular type of residential facility, a residential 16062
facility shall be permitted to serve the same number of persons 16063
being served by the facility on the effective date of the rules 16064
or the number of persons for which the facility is authorized 16065
pursuant to a current application for a certificate of need with 16066
a letter of support from the department of developmental 16067
disabilities and which is in the review process prior to April 16068
4, 1986. 16069

(U) The director may enter at any time, for purposes of 16070
investigation, any home, facility, or other structure that has 16071
been reported to the director or that the director has 16072
reasonable cause to believe is being operated as a residential 16073
facility without a license issued under this section. 16074

The director may petition the court of common pleas of the 16075
county in which an unlicensed residential facility is located 16076
for an order enjoining the person or governmental agency 16077
operating the facility from continuing to operate without a 16078
license. The court may grant the injunction on a showing that 16079
the person or governmental agency named in the petition is 16080
operating a residential facility without a license. The court 16081
may grant the injunction, regardless of whether the residential 16082
facility meets the requirements for receiving a license under 16083
this section. 16084

Sec. 5123.196. (A) Except as provided in division (E) of 16085
this section, the director of developmental disabilities shall 16086
not issue a license under section 5123.19 of the Revised Code on 16087
or after July 1, 2003, if issuance will result in there being 16088
more beds in all residential facilities licensed under that 16089

section than is permitted under division (B) of this section. 16090

(B) The maximum number of beds for the purpose of division 16091
(A) of this section shall not exceed ten thousand eight hundred 16092
thirty-eight minus, except as provided in division (C) of this 16093
section, both of the following: 16094

(1) The number of such beds that cease to be residential 16095
facility beds on or after July 1, 2003, because a residential 16096
facility license is revoked, terminated, or not renewed for any 16097
reason or is surrendered in accordance with section 5123.19 of 16098
the Revised Code; 16099

(2) The number of such beds for which a licensee 16100
voluntarily converts to use for supported living on or after 16101
July 1, 2003. 16102

(C) The director is not required to reduce the maximum 16103
number of beds pursuant to division (B) of this section by a bed 16104
that ceases to be a residential facility bed if the director 16105
determines that the bed is needed to provide services to an 16106
individual with ~~mental retardation~~ an intellectual or a 16107
developmental disability who resided in the residential facility 16108
in which the bed was located. 16109

(D) The director shall maintain an up-to-date written 16110
record of the maximum number of residential facility beds 16111
provided for by division (B) of this section. 16112

(E) The director may issue an interim license under 16113
division (S) of section 5123.19 of the Revised Code and issue, 16114
pursuant to rules adopted under division (H)(11) of that 16115
section, a waiver allowing a residential facility to admit more 16116
residents than the facility is licensed to admit regardless of 16117
whether the interim license or waiver will result in there being 16118

more beds in all residential facilities licensed under that 16119
section than is permitted under division (B) of this section. 16120

Sec. 5123.20. No person or government agency shall operate 16121
a residential facility or receive a ~~mentally retarded person~~ 16122
~~with an intellectual or developmentally disabled person~~ 16123
~~developmental disability~~ as a resident of a residential facility 16124
unless the facility is licensed under section 5123.19 of the 16125
Revised Code, and no person or governmental agency shall operate 16126
a respite care home or receive a ~~mentally retarded person with~~ 16127
~~an intellectual or developmentally disabled person~~ ~~developmental~~ 16128
~~disability~~ in a respite care home unless the home is certified 16129
under section 5126.05 of the Revised Code. 16130

Sec. 5123.27. The director of developmental disabilities 16131
may accept, hold, and administer in trust on behalf of the 16132
state, if it is for the public interest, any grant, devise, 16133
gift, or bequest of money or property made to the state for the 16134
use or benefit of any institution under the jurisdiction of the 16135
department of developmental disabilities or for the use and 16136
benefit of persons with ~~mental retardation~~ ~~an intellectual~~ 16137
~~disability~~ or a developmental disability under the control of 16138
the department. If the trust so provides, the money or property 16139
may be used for any work which the department is authorized to 16140
undertake. 16141

The department shall keep such gift, grant, devise, or 16142
bequest as a distinct property or fund and, if it is in money, 16143
shall invest it in the manner provided by law. The department 16144
may deposit in a proper trust company or savings bank any money 16145
left in trust during a specified life or lives and shall adopt 16146
rules governing the deposit, transfer, withdrawal, or investment 16147
of the money and the income from it. 16148

The department shall, in the manner prescribed by the 16149
director of budget and management pursuant to section 126.21 of 16150
the Revised Code, account for all money or property received or 16151
expended under this section. The records, together with a 16152
statement certified by the depository showing the money 16153
deposited there to the credit of the trust, shall be open to 16154
public inspection. The director of budget and management may 16155
require the department to file a report with the director on any 16156
particular portion, or the whole, of any trust property received 16157
or expended by it. 16158

The department shall, upon the expiration of any trust 16159
according to its terms, dispose of the money or property held 16160
under the trust in the manner provided in the instrument 16161
creating the trust. If the instrument creating the trust failed 16162
to make any terms of disposition, or if no trust was in 16163
evidence, the decedent resident's money, saving or commercial 16164
deposits, dividends or distributions, bonds, or any other 16165
interest-bearing debt certificate or stamp issued by the United 16166
States government shall escheat to the state. All such unclaimed 16167
intangible personal property of a former resident shall be 16168
retained by the managing officer in such institution for the 16169
period of one year, during which time every possible effort 16170
shall be made to find the former resident or the former 16171
resident's legal representative. 16172

If after a period of one year from the time the resident 16173
has left the institution or has died, the managing officer has 16174
been unable to locate the person or the person's legal 16175
representative, then, upon proper notice of that fact, the 16176
director shall at that time formulate in writing a method of 16177
disposition on the minutes of the department authorizing the 16178
managing officer to convert such intangible personal property to 16179

cash to be paid into the state treasury to the credit of the 16180
general revenue fund. 16181

The department shall include in its annual report a 16182
statement of all such money and property and the terms and 16183
conditions relating to them. 16184

Sec. 5123.34. This chapter attempts to do all of the 16185
following: 16186

(A) Provide humane and scientific treatment and care and 16187
the highest attainable degree of individual development for 16188
persons with ~~mental retardation~~ an intellectual or a 16189
developmental disability; 16190

(B) Promote the study of the causes of ~~mental retardation~~ 16191
intellectual and developmental disabilities, with a view to 16192
ultimate prevention; 16193

(C) Secure by uniform and systematic management the 16194
highest attainable degree of economy in the administration of 16195
the institutions under the control of the department of 16196
developmental disabilities. 16197

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 16198
5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code 16199
shall be liberally construed to attain these purposes. 16200

Sec. 5123.35. (A) There is hereby created the Ohio 16201
developmental disabilities council, which shall serve as an 16202
advocate for all persons with developmental disabilities. The 16203
council shall act in accordance with the "Developmental 16204
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 16205
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint 16206
the members of the council in accordance with 42 U.S.C. 6024. 16207

(B) The Ohio developmental disabilities council shall 16208
develop the state plan required by federal law as a condition of 16209
receiving federal assistance under 42 U.S.C. 6021 to 6030. The 16210
department of developmental disabilities, as the state agency 16211
selected by the governor for purposes of receiving the federal 16212
assistance, shall receive, account for, and disburse funds based 16213
on the state plan and shall provide assurances and other 16214
administrative support services required as a condition of 16215
receiving the federal assistance. 16216

(C) The federal funds may be disbursed through grants to 16217
or contracts with persons and government agencies for the 16218
provision of necessary or useful goods and services for 16219
~~developmentally disabled persons~~ with developmental 16220
disabilities. The Ohio developmental disabilities council may 16221
award the grants or enter into the contracts. 16222

(D) The Ohio developmental disabilities council may award 16223
grants to or enter into contracts with a member of the council 16224
or an entity that the member represents if all of the following 16225
apply: 16226

(1) The member serves on the council as a representative 16227
of one of the principal state agencies concerned with services 16228
for persons with developmental disabilities as specified in 42 16229
U.S.C. 6024(b) (3), a representative of a university affiliated 16230
program as defined in 42 U.S.C. 6001(18), or a representative of 16231
the Ohio protection and advocacy system, as defined in section 16232
5123.60 of the Revised Code. 16233

(2) The council determines that the member or the entity 16234
the member represents is capable of providing the goods or 16235
services specified under the terms of the grant or contract. 16236

(3) The member has not taken part in any discussion or 16237
vote of the council related to awarding the grant or entering 16238
into the contract, including service as a member of a review 16239
panel established by the council to award grants or enter into 16240
contracts or to make recommendations with regard to awarding 16241
grants or entering into contracts. 16242

(E) A member of the Ohio developmental disabilities 16243
council is not in violation of Chapter 102. or section 2921.42 16244
of the Revised Code with regard to receiving a grant or entering 16245
into a contract under this section if the requirements of 16246
division (D) of this section have been met. 16247

Sec. 5123.351. The director of developmental disabilities, 16248
with respect to the eligibility for state reimbursement of 16249
expenses incurred by facilities and programs established and 16250
operated under Chapter 5126. of the Revised Code for persons 16251
with ~~mental retardation~~ an intellectual or ~~a~~ developmental 16252
disability, shall do all of the following: 16253

(A) Make rules that may be necessary to carry out the 16254
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 16255
5123.36 of the Revised Code; 16256

(B) Define minimum standards for qualifications of 16257
personnel, professional services, and in-service training and 16258
educational leave programs; 16259

(C) Review and evaluate community programs and make 16260
recommendations for needed improvements to county boards of 16261
developmental disabilities and to program directors; 16262

(D) Withhold state reimbursement, in whole or in part, 16263
from any county or combination of counties for failure to comply 16264
with Chapter 5126. or section 5123.35 or 5123.351 of the Revised 16265

Code or rules of the department of developmental disabilities; 16266

(E) Withhold state funds from an agency, corporation, or 16267
association denying or rendering service on the basis of race, 16268
color, sex, religion, ancestry, national origin, disability as 16269
defined in section 4112.01 of the Revised Code, or inability to 16270
pay; 16271

(F) Provide consultative staff service to communities to 16272
assist in ascertaining needs and in planning and establishing 16273
programs. 16274

Sec. 5123.36. (A) To the extent funds are available and on 16275
application by a county board of developmental disabilities or 16276
private nonprofit agency incorporated to provide ~~mental-~~ 16277
~~retardation-~~intellectual disability or developmental disability 16278
services, the director of developmental disabilities may enter 16279
into an agreement with the county board or agency to assist the 16280
county board or agency with ~~a mental retardation-~~an intellectual 16281
or developmental disability construction project. Except as 16282
provided by division (B) of this section, the director may 16283
provide up to ninety per cent of the total project cost where 16284
circumstances warrant. The director may, where circumstances 16285
warrant, use existing facilities or other in-kind match for the 16286
local share of the communities' share of the cost. 16287

(B) Upon the recommendation of the director, for projects 16288
of the highest priority of the department of developmental 16289
disabilities, the controlling board may authorize the director 16290
to provide more than ninety per cent of the total cost of a 16291
project under this section. 16292

(C) A county board is eligible for funds under this 16293
section for a project bid on or after January 1, 1992, under 16294

either section 153.07 or 307.86 of the Revised Code, as long as 16295
all other applicable requirements were followed. 16296

(D) A private nonprofit agency that receives funds 16297
pursuant to this section for the construction of a single-family 16298
home, including, where appropriate, the acquisition and 16299
installation of a single-family home fabricated in an off-site 16300
facility, is not subject to the requirements of Chapter 153. of 16301
the Revised Code with respect to the construction project, 16302
notwithstanding any provision of that chapter to the contrary. 16303

(E) The director may not assist a project under this 16304
section unless the controlling board or director of budget and 16305
management also approves the project pursuant to section 126.14 16306
of the Revised Code. 16307

Sec. 5123.37. A county board of developmental disabilities 16308
or private, nonprofit agency that receives state funds pursuant 16309
to an agreement with the director of developmental disabilities 16310
under section 5123.36 of the Revised Code to acquire a facility 16311
may apply to the director for approval to sell the facility 16312
before the terms of the agreement expire for the purpose of 16313
acquiring a replacement facility to be used to provide ~~mental-~~ 16314
~~retardation-~~intellectual disability or developmental disability 16315
services to individuals the county board or agency serves. The 16316
application shall be made on a form the director shall 16317
prescribe. The county board or agency shall include in the 16318
application the specific purpose for which the replacement 16319
facility is to be used. The director may refuse to approve the 16320
application if the director determines that any of the following 16321
apply: 16322

(A) The application is incomplete or indicates that the 16323
county board or agency is unable to purchase a replacement 16324

facility. 16325

(B) The replacement facility would not be used to continue 16326
to provide ~~mental retardation~~ intellectual disability or 16327
developmental disability services that the director determines 16328
are appropriate for the individuals the county board or agency 16329
serves. 16330

(C) The county board or agency has failed to comply with a 16331
provision of Chapter 5123. or 5126. of the Revised Code or a 16332
rule adopted by the director. 16333

(D) Approving the application would be inconsistent with 16334
the plans and priorities of the department of developmental 16335
disabilities. 16336

Sec. 5123.374. (A) The director of developmental 16337
disabilities may rescind approval of an application submitted 16338
under section 5123.37 of the Revised Code if either of the 16339
following occurs: 16340

(1) The county board of developmental disabilities or 16341
private, nonprofit agency that submitted the application fails, 16342
on or before the deadline or, if any, the last extended deadline 16343
established under section 5123.372 of the Revised Code for the 16344
county board or agency, to notify the director that the county 16345
board or agency is ready to acquire the replacement facility. 16346

(2) The county board or agency at any time notifies the 16347
director that the county board or agency no longer intends to 16348
acquire a replacement facility. 16349

(B) If the director rescinds approval of an application, 16350
the director shall use any funds the county board or agency paid 16351
to the director under section 5123.371 of the Revised Code to 16352
assist ~~mental retardation~~ intellectual disabilities or 16353

developmental disabilities construction projects under section 16354
5123.36 of the Revised Code. 16355

Sec. 5123.375. The developmental disabilities community 16356
capital replacement facilities fund is hereby created in the 16357
state treasury. The director of developmental disabilities shall 16358
credit all amounts paid to the director under section 5123.371 16359
of the Revised Code to the fund. The director shall use the 16360
money in the fund as follows: 16361

(A) To make payments to county boards of developmental 16362
disabilities and private, nonprofit agencies pursuant to 16363
agreements entered into under section 5123.373 of the Revised 16364
Code; 16365

(B) To provide, pursuant to section 5123.374 of the 16366
Revised Code, assistance for ~~mental retardation~~ intellectual 16367
disabilities or developmental disabilities construction projects 16368
under section 5123.36 of the Revised Code. 16369

Sec. 5123.40. There is hereby created in the state 16370
treasury the services fund for individuals with ~~mental~~ 16371
~~retardation~~ intellectual and developmental disabilities. On the 16372
death of the beneficiary of a trust created pursuant to section 16373
5815.28 of the Revised Code, the portion of the remaining assets 16374
of the trust specified in the trust instrument shall be 16375
deposited to the credit of the fund. 16376

Money credited to the fund shall be used for individuals 16377
with ~~mental retardation~~ intellectual and developmental 16378
disabilities. In accordance with Chapter 119. of the Revised 16379
Code, the department of developmental disabilities may adopt any 16380
rules necessary to implement this section. 16381

Sec. 5123.41. As used in this section and sections 5123.42 16382

to 5123.47 of the Revised Code:	16383
(A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code.	16384 16385
(B) "Certified supported living provider" means a person or government entity certified under section 5123.161 of the Revised Code.	16386 16387 16388
(C) "Drug" has the same meaning as in section 4729.01 of the Revised Code.	16389 16390
(D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.	16391 16392
(E) "Health-related activities" means the following:	16393
(1) Taking vital signs;	16394
(2) Application of clean dressings that do not require health assessment;	16395 16396
(3) Basic measurement of bodily intake and output;	16397
(4) Oral suctioning;	16398
(5) Use of glucometers;	16399
(6) External urinary catheter care;	16400
(7) Emptying and replacing colostomy bags;	16401
(8) Collection of specimens by noninvasive means.	16402
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	16403 16404 16405
(G) " MR/DD ID/DD personnel" means the employees and the workers under contract who provide specialized services to	16406 16407

individuals with ~~mental retardation~~ intellectual disabilities 16408
and developmental disabilities. "~~MR/DD~~ ID/DD personnel" includes 16409
those who provide the services as follows: 16410

(1) Through direct employment with the department of 16411
developmental disabilities or a county board of developmental 16412
disabilities; 16413

(2) Through an entity under contract with the department 16414
of developmental disabilities or a county board of developmental 16415
disabilities; 16416

(3) Through direct employment or by being under contract 16417
with private entities, including private entities that operate 16418
residential facilities. 16419

(H) "Nursing delegation" means the process established in 16420
rules adopted by the board of nursing pursuant to Chapter 4723. 16421
of the Revised Code under which a registered nurse or licensed 16422
practical nurse acting at the direction of a registered nurse 16423
transfers the performance of a particular nursing activity or 16424
task to another person who is not otherwise authorized to 16425
perform the activity or task. 16426

(I) "Prescribed medication" means a drug that is to be 16427
administered according to the instructions of a licensed health 16428
professional authorized to prescribe drugs. 16429

(J) "Residential facility" means a facility licensed under 16430
section 5123.19 of the Revised Code. 16431

(K) "Specialized services" has the same meaning as in 16432
section 5123.50 of the Revised Code. 16433

(L) "Tube feeding" means the provision of nutrition to an 16434
individual through a gastrostomy tube or a jejunostomy tube. 16435

Sec. 5123.42. (A) Beginning nine months after March 31, 2003, ~~MR/DD-ID/DD~~ personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, or perform tube feedings may do so pursuant to this section as part of the specialized services the ~~MR/DD-ID/DD~~ personnel provide to individuals with ~~mental retardation~~ intellectual and developmental disabilities in the following categories:

(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with ~~mental retardation~~ intellectual and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(6) Recipients of services not included in divisions (A) (1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

- (7) Residents of a residential facility with five or fewer resident beds; 16465
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- (8) Residents of a residential facility with at least six but not more than sixteen resident beds; 16467
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- (9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case: 16469
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- (a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents. 16472
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- (b) Not more than ten field trip participants are residents who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed medications or receive assistance with self-administration of prescribed medications. 16478
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- (c) The facility staffs the field trip with ~~MR/DD~~ID/DD personnel in such a manner that one person will administer prescribed medications, perform health-related activities, or perform tube feedings for not more than four participants if one or more of those participants have health needs requiring the person to administer prescribed medications through a gastrostomy or jejunostomy tube. 16483
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- (d) According to the instructions of a health care professional acting within the scope of the professional's practice, the health needs of the participants who require administration of prescribed medications by ~~MR/DD~~ID/DD 16490
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personnel are such that the participants must receive the 16494
medications during the field trip to avoid jeopardizing their 16495
health and safety. 16496

(B) (1) In the case of recipients of early intervention, 16497
preschool, and school-age services, as specified in division (A) 16498
(1) of this section, all of the following apply: 16499

(a) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16500
perform health-related activities. 16501

(b) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16502
administer oral and topical prescribed medications. 16503

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16504
administer prescribed medications through gastrostomy and 16505
jejunostomy tubes, if the tubes being used are stable and 16506
labeled. 16507

(d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16508
perform routine tube feedings, if the gastrostomy and 16509
jejunostomy tubes being used are stable and labeled. 16510

(2) In the case of recipients of adult services, as 16511
specified in division (A) (2) of this section, all of the 16512
following apply: 16513

(a) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16514
perform health-related activities. 16515

(b) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16516
administer oral and topical prescribed medications. 16517

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16518
administer prescribed medications through gastrostomy and 16519
jejunostomy tubes, if the tubes being used are stable and 16520
labeled. 16521

(d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16522
perform routine tube feedings, if the gastrostomy and 16523
jejunostomy tubes being used are stable and labeled. 16524

(3) In the case of recipients of family support services, 16525
as specified in division (A) (3) of this section, all of the 16526
following apply: 16527

(a) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may 16528
perform health-related activities. 16529

(b) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may 16530
administer oral and topical prescribed medications. 16531

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16532
administer prescribed medications through gastrostomy and 16533
jejunostomy tubes, if the tubes being used are stable and 16534
labeled. 16535

(d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16536
perform routine tube feedings, if the gastrostomy and 16537
jejunostomy tubes being used are stable and labeled. 16538

(e) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16539
administer routine doses of insulin through subcutaneous 16540
injections and insulin pumps. 16541

(4) In the case of recipients of services from certified 16542
supported living providers, as specified in division (A) (4) of 16543
this section, all of the following apply: 16544

(a) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may 16545
perform health-related activities. 16546

(b) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may 16547
administer oral and topical prescribed medications. 16548

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16549
administer prescribed medications through gastrostomy and 16550
jejunostomy tubes, if the tubes being used are stable and 16551
labeled. 16552

(d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16553
perform routine tube feedings, if the gastrostomy and 16554
jejunostomy tubes being used are stable and labeled. 16555

(e) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16556
administer routine doses of insulin through subcutaneous 16557
injections and insulin pumps. 16558

(5) In the case of recipients of residential support 16559
services from certified home and community-based services 16560
providers, as specified in division (A) (5) of this section, all 16561
of the following apply: 16562

(a) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may 16563
perform health-related activities. 16564

(b) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may 16565
administer oral and topical prescribed medications. 16566

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16567
administer prescribed medications through gastrostomy and 16568
jejunostomy tubes, if the tubes being used are stable and 16569
labeled. 16570

(d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16571
perform routine tube feedings, if the gastrostomy and 16572
jejunostomy tubes being used are stable and labeled. 16573

(e) With nursing delegation, ~~MR/DD~~-ID/DD personnel may 16574
administer routine doses of insulin through subcutaneous 16575
injections and insulin pumps. 16576

- (6) In the case of recipients of services not included in divisions (A) (1) to (5) of this section, as specified in division (A) (6) of this section, all of the following apply:
- (a) With nursing delegation, ~~MR/DD~~-ID/DD personnel may perform health-related activities.
 - (b) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer oral and topical prescribed medications.
 - (c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.
 - (d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.
- (7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A) (7) of this section, all of the following apply:
- (a) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may perform health-related activities.
 - (b) Without nursing delegation, ~~MR/DD~~-ID/DD personnel may administer oral and topical prescribed medications.
 - (c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.
 - (d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(8) In the case of residents of a residential facility with at least six but not more than sixteen resident beds, as specified in division (A) (8) of this section, all of the following apply:

(a) With nursing delegation, ~~MR/DD~~-ID/DD personnel may perform health-related activities.

(b) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, ~~MR/DD~~-ID/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(9) In the case of residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, all of the following apply during the field trip, subject to the limitations specified in division (A) (9) of this section:

(a) With nursing delegation, ~~MR/DD~~-ID/DD personnel may perform health-related activities.

(b) With nursing delegation, ~~MR/DD~~-ID/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, ~~MR/DD~~-ID/DD personnel may

administer prescribed medications through gastrostomy and 16633
jejunostomy tubes, if the tubes being used are stable and 16634
labeled. 16635

(d) With nursing delegation, ~~MR/DD-ID/DD~~ personnel may 16636
perform routine tube feedings, if the gastrostomy and 16637
jejunostomy tubes being used are stable and labeled. 16638

(C) The authority of ~~MR/DD-ID/DD~~ personnel to administer 16639
prescribed medications, perform health-related activities, and 16640
perform tube feedings pursuant to this section is subject to all 16641
of the following: 16642

(1) To administer prescribed medications, perform health- 16643
related activities, or perform tube feedings for individuals in 16644
the categories specified under divisions (A) (1) to (8) of this 16645
section, ~~MR/DD-ID/DD~~ personnel shall obtain the certificate or 16646
certificates required by the department of developmental 16647
disabilities and issued under section 5123.45 of the Revised 16648
Code. ~~MR/DD-ID/DD~~ personnel shall administer prescribed 16649
medication, perform health-related activities, and perform tube 16650
feedings only as authorized by the certificate or certificates 16651
held. 16652

(2) To administer prescribed medications, perform health- 16653
related activities, or perform tube feedings for individuals in 16654
the category specified under division (A) (9) of this section, 16655
~~MR/DD-ID/DD~~ personnel shall successfully complete the training 16656
course or courses developed under section 5123.43 of the Revised 16657
Code for the ~~MR/DD-ID/DD~~ personnel. ~~MR/DD-ID/DD~~ personnel shall 16658
administer prescribed medication, perform health-related 16659
activities, and perform tube feedings only as authorized by the 16660
training completed. 16661

(3) If nursing delegation is required under division (B) 16662
of this section, ~~MR/DD-ID/DD~~ personnel shall not act without 16663
nursing delegation or in a manner that is inconsistent with the 16664
delegation. 16665

(4) The employer of ~~MR/DD-ID/DD~~ personnel shall ensure 16666
that ~~MR/DD-ID/DD~~ personnel have been trained specifically with 16667
respect to each individual for whom they administer prescribed 16668
medications, perform health-related activities, or perform tube 16669
feedings. ~~MR/DD-ID/DD~~ personnel shall not administer prescribed 16670
medications, perform health-related activities, or perform tube 16671
feedings for any individual for whom they have not been 16672
specifically trained. 16673

(5) If the employer of ~~MR/DD-ID/DD~~ personnel believes that 16674
~~MR/DD-ID/DD~~ personnel have not or will not safely administer 16675
prescribed medications, perform health-related activities, or 16676
perform tube feedings, the employer shall prohibit the action 16677
from continuing or commencing. ~~MR/DD-ID/DD~~ personnel shall not 16678
engage in the action or actions subject to an employer's 16679
prohibition. 16680

(D) In accordance with section 5123.46 of the Revised 16681
Code, the department of developmental disabilities shall adopt 16682
rules governing its implementation of this section. The rules 16683
shall include the following: 16684

(1) Requirements for documentation of the administration 16685
of prescribed medications, performance of health-related 16686
activities, and performance of tube feedings by ~~MR/DD-ID/DD~~ 16687
personnel pursuant to the authority granted under this section; 16688

(2) Procedures for reporting errors that occur in the 16689
administration of prescribed medications, performance of health- 16690

related activities, and performance of tube feedings by ~~MR/DD-~~ 16691
ID/DD personnel pursuant to the authority granted under this 16692
section; 16693

(3) Other standards and procedures the department 16694
considers necessary for implementation of this section. 16695

Sec. 5123.421. The department of developmental 16696
disabilities shall accept complaints from any person or 16697
government entity regarding the administration of prescribed 16698
medications, performance of health-related activities, and 16699
performance of tube feedings by ~~MR/DD-~~ID/DD personnel pursuant 16700
to the authority granted under section 5123.42 of the Revised 16701
Code. The department shall conduct investigations of complaints 16702
as it considers appropriate. The department shall adopt rules in 16703
accordance with section 5123.46 of the Revised Code establishing 16704
procedures for accepting complaints and conducting 16705
investigations under this section. 16706

Sec. 5123.422. ~~MR/DD-~~ID/DD personnel who administer 16707
prescribed medications, perform health-related activities, or 16708
perform tube feedings pursuant to the authority granted under 16709
section 5123.42 of the Revised Code are not liable for any 16710
injury caused by administering the medications, performing the 16711
health-related activities, or performing the tube feedings, if 16712
both of the following apply: 16713

(A) The ~~MR/DD-~~ID/DD personnel acted in accordance with the 16714
methods taught in training completed in compliance with section 16715
5123.42 of the Revised Code; 16716

(B) The ~~MR/DD-~~ID/DD personnel did not act in a manner that 16717
constitutes wanton or reckless misconduct. 16718

Sec. 5123.43. (A) The department of developmental 16719

disabilities shall develop courses for the training of ~~MR/DD-~~ 16720
ID/DD personnel in the administration of prescribed medications, 16721
performance of health-related activities, and performance of 16722
tube feedings pursuant to the authority granted under section 16723
5123.42 of the Revised Code. The department may develop separate 16724
or combined training courses for the administration of 16725
prescribed medications, performance of health-related 16726
activities, and performance of tube feedings. Training in the 16727
administration of prescribed medications through gastrostomy and 16728
jejunostomy tubes may be included in a course providing training 16729
in tube feedings. Training in the administration of insulin may 16730
be developed as a separate course or included in a course 16731
providing training in the administration of other prescribed 16732
medications. 16733

(B) (1) The department shall adopt rules in accordance with 16734
section 5123.46 of the Revised Code that specify the content and 16735
length of the training courses developed under this section. The 16736
rules may include any other standards the department considers 16737
necessary for the training courses. 16738

(2) In adopting rules that specify the content of a 16739
training course or part of a training course that trains ~~MR/DD-~~ 16740
ID/DD personnel in the administration of prescribed medications, 16741
the department shall ensure that the content includes all of the 16742
following: 16743

(a) Infection control and universal precautions; 16744

(b) Correct and safe practices, procedures, and techniques 16745
for administering prescribed medication; 16746

(c) Assessment of drug reaction, including known side 16747
effects, interactions, and the proper course of action if a side 16748

effect occurs; 16749

(d) The requirements for documentation of medications administered to each individual; 16750
16751

(e) The requirements for documentation and notification of medication errors; 16752
16753

(f) Information regarding the proper storage and care of medications; 16754
16755

(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record, except when the ~~MR/DD~~-ID/DD personnel being trained will administer prescribed medications only to residents of a residential facility with seventeen or more resident beds who are participating in a field trip, as specified in division (A) (9) of section 5123.42 of the Revised Code; 16756
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(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications; 16764
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(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by ~~MR/DD~~-ID/DD personnel. 16767
16768
16769

Sec. 5123.44. The department of developmental disabilities shall develop courses that train registered nurses to provide the ~~MR/DD~~-ID/DD personnel training courses developed under section 5123.43 of the Revised Code. The department may develop courses that train registered nurses to provide all of the courses developed under section 5123.43 of the Revised Code or any one or more of the courses developed under that section. 16770
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The department shall adopt rules in accordance with 16777
section 5123.46 of the Revised Code that specify the content and 16778
length of the training courses. The rules may include any other 16779
standards the department considers necessary for the training 16780
courses. 16781

Sec. 5123.441. (A) Each ~~MR/DD~~ID/DD personnel training 16782
course developed under section 5123.43 of the Revised Code shall 16783
be provided by a registered nurse. 16784

(B) (1) Except as provided in division (B) (2) of this 16785
section, to provide a training course or courses to ~~MR/DD~~ID/DD 16786
personnel, a registered nurse shall obtain the certificate or 16787
certificates required by the department and issued under section 16788
5123.45 of the Revised Code. The registered nurse shall provide 16789
only the training course or courses authorized by the 16790
certificate or certificates the registered nurse holds. 16791

(2) A registered nurse is not required to obtain a 16792
certificate to provide a training course to ~~MR/DD~~ID/DD 16793
personnel if the only ~~MR/DD~~ID/DD personnel to whom the course 16794
or courses are provided are those who administer prescribed 16795
medications, perform health-related activities, or perform tube 16796
feedings for residents of a residential facility with seventeen 16797
or more resident beds who are on a field trip from the facility, 16798
as specified in division (A) (9) of section 5123.42 of the 16799
Revised Code. To provide the training course or courses, the 16800
registered nurse shall successfully complete the training 16801
required by the department through the courses it develops under 16802
section 5123.44 of the Revised Code. The registered nurse shall 16803
provide only the training courses authorized by the training the 16804
registered nurse completes. 16805

Sec. 5123.45. (A) The department of developmental 16806

disabilities shall establish a program under which the 16807
department issues certificates to the following: 16808

(1) ~~MR/DD-ID/DD~~ personnel, for purposes of meeting the 16809
requirement of division (C)(1) of section 5123.42 of the Revised 16810
Code to obtain a certificate or certificates to administer 16811
prescribed medications, perform health-related activities, and 16812
perform tube feedings; 16813

(2) Registered nurses, for purposes of meeting the 16814
requirement of division (B)(1) of section 5123.441 of the 16815
Revised Code to obtain a certificate or certificates to provide 16816
the ~~MR/DD-ID/DD~~ personnel training courses developed under 16817
section 5123.43 of the Revised Code. 16818

(B)(1) Except as provided in division (B)(2) of this 16819
section, to receive a certificate issued under this section, 16820
~~MR/DD-ID/DD~~ personnel and registered nurses shall successfully 16821
complete the applicable training course or courses and meet all 16822
other applicable requirements established in rules adopted 16823
pursuant to this section. The department shall issue the 16824
appropriate certificate or certificates to ~~MR/DD-ID/DD~~ personnel 16825
and registered nurses who meet the requirements for the 16826
certificate or certificates. 16827

(2) The department shall include provisions in the program 16828
for issuing certificates to ~~MR/DD-ID/DD~~ personnel and registered 16829
nurses who were required to be included in the certificate 16830
program pursuant to division (B)(2) of this section as that 16831
division existed immediately before ~~the effective date of this~~ 16832
~~amendment~~ September 29, 2011. ~~MR/DD-ID/DD~~ personnel who receive 16833
a certificate under division (B)(2) of this section shall not 16834
administer insulin until they have been trained by a registered 16835
nurse who has received a certificate under this section that 16836

allows the registered nurse to provide training courses to ~~MR/DD-~~ 16837
ID/DD personnel in the administration of insulin. A registered 16838
nurse who receives a certificate under division (B) (2) of this 16839
section shall not provide training courses to ~~MR/DD-~~ID/DD 16840
personnel in the administration of insulin unless the registered 16841
nurse completes a course developed under section 5123.44 of the 16842
Revised Code that enables the registered nurse to receive a 16843
certificate to provide training courses to ~~MR/DD-~~ID/DD personnel 16844
in the administration of insulin. 16845

(C) Certificates issued to ~~MR/DD-~~ID/DD personnel are valid 16846
for one year and may be renewed. Certificates issued to 16847
registered nurses are valid for two years and may be renewed. 16848

To be eligible for renewal, ~~MR/DD-~~ID/DD personnel and 16849
registered nurses shall meet the applicable continued competency 16850
requirements and continuing education requirements specified in 16851
rules adopted under division (D) of this section. In the case of 16852
registered nurses, continuing nursing education completed in 16853
compliance with the license renewal requirements established 16854
under Chapter 4723. of the Revised Code may be counted toward 16855
meeting the continuing education requirements established in the 16856
rules adopted under division (D) of this section. 16857

(D) In accordance with section 5123.46 of the Revised 16858
Code, the department shall adopt rules that establish all of the 16859
following: 16860

(1) Requirements that ~~MR/DD-~~ID/DD personnel and registered 16861
nurses must meet to be eligible to take a training course; 16862

(2) Standards that must be met to receive a certificate, 16863
including requirements pertaining to an applicant's criminal 16864
background; 16865

(3) Procedures to be followed in applying for a certificate and issuing a certificate; 16866
16867

(4) Standards and procedures for renewing a certificate, 16868
including requirements for continuing education and, in the case 16869
of ~~MR/DD~~-ID/DD personnel who administer prescribed medications, 16870
standards that require successful demonstration of proficiency 16871
in administering prescribed medications; 16872

(5) Standards and procedures for suspending or revoking a 16873
certificate; 16874

(6) Standards and procedures for suspending a certificate 16875
without a hearing pending the outcome of an investigation; 16876

(7) Any other standards or procedures the department 16877
considers necessary to administer the certification program. 16878

Sec. 5123.451. The department of developmental 16879
disabilities shall establish and maintain a registry that lists 16880
all ~~MR/DD~~-ID/DD personnel and registered nurses holding valid 16881
certificates issued under section 5123.45 of the Revised Code. 16882
The registry shall specify the type of certificate held and any 16883
limitations that apply to a certificate holder. The department 16884
shall make the information in the registry available to the 16885
public in computerized form or any other manner that provides 16886
continuous access to the information in the registry. 16887

Sec. 5123.47. (A) As used in this section: 16888

(1) "In-home care" means the supportive services provided 16889
within the home of an individual with ~~mental retardation~~-an 16890
intellectual or ~~a~~-developmental disability who receives funding 16891
for the services through a county board of developmental 16892
disabilities, including any recipient of residential services 16893
funded as home and community-based services, family support 16894

services provided under section 5126.11 of the Revised Code, or 16895
supported living provided in accordance with sections 5126.41 to 16896
5126.47 of the Revised Code. "In-home care" includes care that 16897
is provided outside an individual's home in places incidental to 16898
the home, and while traveling to places incidental to the home, 16899
except that "in-home care" does not include care provided in the 16900
facilities of a county board of developmental disabilities or 16901
care provided in schools. 16902

(2) "Parent" means either parent of a child, including an 16903
adoptive parent but not a foster parent. 16904

(3) "Unlicensed in-home care worker" means an individual 16905
who provides in-home care but is not a health care professional. 16906

(4) "Family member" means a parent, sibling, spouse, son, 16907
daughter, grandparent, aunt, uncle, cousin, or guardian of the 16908
individual with ~~mental retardation~~ an intellectual or a 16909
developmental disability if the individual with ~~mental~~ 16910
~~retardation~~ an intellectual or developmental ~~disabilities~~ 16911
disability lives with the person and is dependent on the person 16912
to the extent that, if the supports were withdrawn, another 16913
living arrangement would have to be found. 16914

(5) "Health care professional" means any of the following: 16915

(a) A dentist who holds a valid license issued under 16916
Chapter 4715. of the Revised Code; 16917

(b) A registered or licensed practical nurse who holds a 16918
valid license issued under Chapter 4723. of the Revised Code; 16919

(c) An optometrist who holds a valid license issued under 16920
Chapter 4725. of the Revised Code; 16921

(d) A pharmacist who holds a valid license issued under 16922

Chapter 4729. of the Revised Code;	16923
(e) A person who holds a valid certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine;	16924 16925 16926 16927
(f) A physician assistant who holds a valid certificate issued under Chapter 4730. of the Revised Code;	16928 16929
(g) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapist assistant who holds a valid license issued under Chapter 4755. of the Revised Code;	16930 16931 16932 16933
(h) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.	16934 16935
(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice.	16936 16937 16938 16939
(B) Except as provided in division (E) of this section, a family member of an individual with mental retardation <u>an intellectual</u> or a developmental disability may authorize an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks as part of the in-home care the worker provides to the individual, if all of the following apply:	16940 16941 16942 16943 16944 16945 16946
(1) The family member is the primary supervisor of the care.	16947 16948
(2) The unlicensed in-home care worker has been selected by the family member or the individual receiving care and is	16949 16950

under the direct supervision of the family member. 16951

(3) The unlicensed in-home care worker is providing the 16952
care through an employment or other arrangement entered into 16953
directly with the family member and is not otherwise employed by 16954
or under contract with a person or government entity to provide 16955
services to individuals with ~~mental retardation~~ intellectual and 16956
developmental disabilities. 16957

(C) A family member shall obtain a prescription, if 16958
applicable, and written instructions from a health care 16959
professional for the care to be provided to the individual. The 16960
family member shall authorize the unlicensed in-home care worker 16961
to provide the care by preparing a written document granting the 16962
authority. The family member shall provide the unlicensed in- 16963
home care worker with appropriate training and written 16964
instructions in accordance with the instructions obtained from 16965
the health care professional. 16966

(D) A family member who authorizes an unlicensed in-home 16967
care worker to administer oral and topical prescribed 16968
medications or perform other health care tasks retains full 16969
responsibility for the health and safety of the individual 16970
receiving the care and for ensuring that the worker provides the 16971
care appropriately and safely. No entity that funds or monitors 16972
the provision of in-home care may be held liable for the results 16973
of the care provided under this section by an unlicensed in-home 16974
care worker, including such entities as the county board of 16975
developmental disabilities and the department of developmental 16976
disabilities. 16977

An unlicensed in-home care worker who is authorized under 16978
this section by a family member to provide care to an individual 16979
may not be held liable for any injury caused in providing the 16980

care, unless the worker provides the care in a manner that is 16981
not in accordance with the training and instructions received or 16982
the worker acts in a manner that constitutes wanton or reckless 16983
misconduct. 16984

(E) A county board of developmental disabilities may 16985
evaluate the authority granted by a family member under this 16986
section to an unlicensed in-home care worker at any time it 16987
considers necessary and shall evaluate the authority on receipt 16988
of a complaint. If the board determines that a family member has 16989
acted in a manner that is inappropriate for the health and 16990
safety of the individual receiving the care, the authorization 16991
granted by the family member to an unlicensed in-home care 16992
worker is void, and the family member may not authorize other 16993
unlicensed in-home care workers to provide the care. In making 16994
such a determination, the board shall use appropriately licensed 16995
health care professionals and shall provide the family member an 16996
opportunity to file a complaint under section 5126.06 of the 16997
Revised Code. 16998

Sec. 5123.50. As used in sections 5123.50 to 5123.542 of 16999
the Revised Code: 17000

(A) "Abuse" means all of the following: 17001

(1) The use of physical force that can reasonably be 17002
expected to result in physical harm or serious physical harm; 17003

(2) Sexual abuse; 17004

(3) Verbal abuse. 17005

(B) "Misappropriation" means depriving, defrauding, or 17006
otherwise obtaining the real or personal property of an 17007
individual by any means prohibited by the Revised Code, 17008
including violations of Chapter 2911. or 2913. of the Revised 17009

Code.	17010
(C) " MR/DD <u>ID/DD</u> employee" means all of the following:	17011
(1) An employee of the department of developmental disabilities;	17012 17013
(2) An employee of a county board of developmental disabilities;	17014 17015
(3) An employee in a position that includes providing specialized services to an individual with mental retardation <u>an intellectual disability</u> or another developmental disability;	17016 17017 17018
(4) An independent provider as defined in section 5123.16 of the Revised Code.	17019 17020
(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.	17021 17022 17023 17024
(E) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.	17025 17026
(F) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.	17027 17028
(G) "Prescribed medication" has the same meaning as in section 5123.41 of the Revised Code.	17029 17030
(H) "Sexual abuse" means unlawful sexual conduct or sexual contact.	17031 17032
(I) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation <u>intellectual</u> or a developmental disability <u>disabilities</u> , including a program or service provided by an	17033 17034 17035 17036

entity licensed or certified by the department of developmental 17037
disabilities. A program or service available to the general 17038
public is not a specialized service. 17039

(J) "Verbal abuse" means purposely using words to 17040
threaten, coerce, intimidate, harass, or humiliate an 17041
individual. 17042

(K) "Sexual conduct," "sexual contact," and "spouse" have 17043
the same meanings as in section 2907.01 of the Revised Code. 17044

Sec. 5123.51. (A) In addition to any other action required 17045
by sections 5123.61 and 5126.31 of the Revised Code, the 17046
department of developmental disabilities shall review each 17047
report the department receives of abuse or neglect of an 17048
individual with ~~mental retardation~~ an intellectual or a 17049
developmental disability or misappropriation of an individual's 17050
property that includes an allegation that an ~~MR/DD~~ ID/DD 17051
employee committed or was responsible for the abuse, neglect, or 17052
misappropriation. The department shall review a report it 17053
receives from a public children services agency only after the 17054
agency completes its investigation pursuant to section 2151.421 17055
of the Revised Code. On receipt of a notice under section 17056
2930.061 or 5123.541 of the Revised Code, the department shall 17057
review the notice. 17058

(B) The department shall do both of the following: 17059

(1) Investigate the allegation or adopt the findings of an 17060
investigation or review of the allegation conducted by another 17061
person or government entity and determine whether there is a 17062
reasonable basis for the allegation; 17063

(2) If the department determines that there is a 17064
reasonable basis for the allegation, conduct an adjudication 17065

pursuant to Chapter 119. of the Revised Code. 17066

(C) (1) The department shall appoint an independent hearing 17067
officer to conduct any hearing conducted pursuant to division 17068
(B) (2) of this section, except that, if the hearing is regarding 17069
an employee of the department who is represented by a union, the 17070
department and a representative of the union shall jointly 17071
select the hearing officer. 17072

(2) (a) Except as provided in division (C) (2) (b) of this 17073
section, no hearing shall be conducted under division (B) (2) of 17074
this section until any criminal proceeding or collective 17075
bargaining arbitration concerning the same allegation has 17076
concluded. 17077

(b) The department may conduct a hearing pursuant to 17078
division (B) (2) of this section before a criminal proceeding 17079
concerning the same allegation is concluded if both of the 17080
following are the case: 17081

(i) The department notifies the prosecutor responsible for 17082
the criminal proceeding that the department proposes to conduct 17083
a hearing. 17084

(ii) The prosecutor consents to the hearing. 17085

(3) In conducting a hearing pursuant to division (B) (2) of 17086
this section, the hearing officer shall do all of the following: 17087

(a) Determine whether there is clear and convincing 17088
evidence that the ~~MR/DD~~ID/DD employee has done any of the 17089
following: 17090

(i) Misappropriated property of one or more individuals 17091
with ~~mental retardation~~intellectual or ~~a~~ developmental 17092
~~disability~~disabilities that has a value, either separately or 17093

- taken together, of one hundred dollars or more; 17094
- (ii) Misappropriated property of an individual with ~~mental-retardation~~ an intellectual or ~~a~~ developmental disability that 17095
is designed to be used as a check, draft, negotiable instrument, 17096
credit card, charge card, or device for initiating an electronic 17097
fund transfer at a point of sale terminal, automated teller 17098
machine, or cash dispensing machine; 17099
17100
- (iii) Misappropriated prescribed medication of an 17101
individual with ~~mental-retardation~~ an intellectual or ~~a~~ 17102
developmental disability; 17103
- (iv) Knowingly abused such an individual; 17104
- (v) Recklessly abused or neglected such an individual, 17105
with resulting physical harm; 17106
- (vi) Negligently abused or neglected such an individual, 17107
with resulting serious physical harm; 17108
- (vii) Recklessly neglected such an individual, creating a 17109
substantial risk of serious physical harm; 17110
- (viii) Engaged in sexual conduct or had sexual contact 17111
with an individual with ~~mental-retardation~~ an intellectual or 17112
~~another~~ developmental disability who was not the ~~MR/DD~~ ID/DD 17113
employee's spouse and for whom the ~~MR/DD~~ ID/DD employee was 17114
employed or under a contract to provide care; 17115
- (ix) Unreasonably failed to make a report pursuant to 17116
division (C) of section 5123.61 of the Revised Code when the 17117
employee knew or should have known that the failure would result 17118
in a substantial risk of harm to an individual with ~~mental-~~ 17119
~~retardation~~ an intellectual or ~~a~~ developmental disability; 17120
- (x) Been convicted of or entered a plea of guilty to any 17121

of the following if the victim of the offense is an individual 17122
with ~~mental retardation~~ an intellectual or a developmental 17123
disability: an offense of violence, a violation of a section 17124
contained in Chapter 2907. or Chapter 2913. of the Revised Code, 17125
or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 17126
of the Revised Code. 17127

(b) Give weight to the decision in any collective 17128
bargaining arbitration regarding the same allegation; 17129

(c) Give weight to any relevant facts presented at the 17130
hearing. 17131

(D) (1) Unless the director of developmental disabilities 17132
determines that there are extenuating circumstances and except 17133
as provided in division (E) of this section, if the director, 17134
after considering all of the factors listed in division (C) (3) 17135
of this section, finds that there is clear and convincing 17136
evidence that an ~~MR/DD~~ ID/DD employee has done one or more of 17137
the things described in division (C) (3) (a) of this section the 17138
director shall include the name of the employee in the registry 17139
established under section 5123.52 of the Revised Code. 17140

(2) Extenuating circumstances the director must consider 17141
include the use of physical force by an ~~MR/DD~~ ID/DD employee 17142
that was necessary as self-defense. 17143

(3) If the director includes an ~~MR/DD~~ ID/DD employee in 17144
the registry established under section 5123.52 of the Revised 17145
Code, the director shall notify the employee, the person or 17146
government entity that employs or contracts with the employee, 17147
the individual with ~~mental retardation~~ an intellectual or a 17148
developmental disability who was the subject of the report and 17149
that individual's legal guardian, if any, the attorney general, 17150

and the prosecuting attorney or other law enforcement agency. If 17151
the ~~MR/DD~~-ID/DD employee holds a license, certificate, 17152
registration, or other authorization to engage in a profession 17153
issued pursuant to Title XLVII of the Revised Code, the director 17154
shall notify the appropriate agency, board, department, or other 17155
entity responsible for regulating the employee's professional 17156
practice. 17157

(4) If an individual whose name appears on the registry is 17158
involved in a court proceeding or arbitration arising from the 17159
same facts as the allegation resulting in the individual's 17160
placement on the registry, the disposition of the proceeding or 17161
arbitration shall be noted in the registry next to the 17162
individual's name. 17163

(E) In the case of an allegation concerning an employee of 17164
the department, after the hearing conducted pursuant to division 17165
(B) (2) of this section, the director of health or that 17166
director's designee shall review the decision of the hearing 17167
officer to determine whether the standard described in division 17168
(C) (3) of this section has been met. If the director or designee 17169
determines that the standard has been met and that no 17170
extenuating circumstances exist, the director or designee shall 17171
notify the director of developmental disabilities that the ~~MR/DD~~- 17172
ID/DD employee is to be included in the registry established 17173
under section 5123.52 of the Revised Code. If the director of 17174
developmental disabilities receives such notification, the 17175
director shall include the ~~MR/DD~~-ID/DD employee in the registry 17176
and shall provide the notification described in division (D) (3) 17177
of this section. 17178

(F) If the department is required by Chapter 119. of the 17179
Revised Code to give notice of an opportunity for a hearing and 17180

the ~~MR/DD-ID/DD~~ employee subject to the notice does not timely 17181
request a hearing in accordance with section 119.07 or 5123.0414 17182
of the Revised Code, the department is not required to hold a 17183
hearing. 17184

(G) Files and records of investigations conducted pursuant 17185
to this section are not public records as defined in section 17186
149.43 of the Revised Code, but, on request, the department 17187
shall provide copies of those files and records to the attorney 17188
general, a prosecuting attorney, or a law enforcement agency. 17189

Sec. 5123.52. (A) The department of developmental 17190
disabilities shall establish a registry of ~~MR/DD-ID/DD~~ employees 17191
consisting of the names of ~~MR/DD-ID/DD~~ employees included in the 17192
registry pursuant to section 5123.51 of the Revised Code. 17193

(B) Before a person or government entity hires, contracts 17194
with, or employs an individual as an ~~MR/DD-ID/DD~~ employee, the 17195
person or government entity shall inquire whether the individual 17196
is included in the registry. 17197

(C) When it receives an inquiry regarding whether an 17198
individual is included in the registry, the department shall 17199
inform the person making the inquiry whether the individual is 17200
included in the registry. 17201

(D) (1) Except as otherwise provided in a collective 17202
bargaining agreement entered into under Chapter 4117. of the 17203
Revised Code that is in effect on November 22, 2000, no person 17204
or government entity shall hire, contract with, or employ as an 17205
~~MR/DD-ID/DD~~ employee an individual who is included in the 17206
registry. Notwithstanding sections 4117.08 and 4117.10 of the 17207
Revised Code, no agreement entered into under Chapter 4117. of 17208
the Revised Code after November 22, 2000, may contain any 17209

provision that in any way limits the effect or operation of this section. 17210
17211

(2) Neither the department nor any county board of developmental disabilities may enter into a new contract or renew a contract with a person or government entity that fails to comply with division (D)(1) of this section until the department or board is satisfied that the person or government entity will comply. 17212
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(3) A person or government entity that fails to hire or retain as an ~~MR/DD-ID/DD~~ employee a person because the person is included in the registry shall not be liable in damages in a civil action brought by the employee or applicant for employment. Termination of employment pursuant to division (D)(1) of this section constitutes a discharge for just cause for the purposes of section 4141.29 of the Revised Code. 17218
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(E) Information contained in the registry is a public record for the purposes of section 149.43 of the Revised Code and is subject to inspection and copying under section 1347.08 of the Revised Code. 17225
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Sec. 5123.541. (A) No ~~MR/DD-ID/DD~~ employee shall engage in any sexual conduct or have any sexual contact with an individual with ~~mental retardation~~ an intellectual disability or another developmental disability for whom the ~~MR/DD-ID/DD~~ employee is employed or under a contract to provide care unless the individual is the ~~MR/DD-ID/DD~~ employee's spouse. 17229
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(B) Any ~~MR/DD-ID/DD~~ employee who violates division (A) of this section shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by ~~MR/DD-ID/DD~~ employees established under section 17235
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5123.52 of the Revised Code, in addition to any other sanction 17239
or penalty authorized or required by law. 17240

(C) (1) Any person listed in division (C) (2) of section 17241
5123.61 of the Revised Code who has reason to believe that an 17242
~~MR/DD~~-ID/DD employee has violated division (A) of this section 17243
shall immediately report that belief to the department of 17244
developmental disabilities. 17245

(2) Any person who has reason to believe that an ~~MR/DD~~- 17246
ID/DD employee has violated division (A) of this section may 17247
report that belief to the department of developmental 17248
disabilities. 17249

Sec. 5123.542. (A) Each of the following shall annually 17250
provide a written notice to each of its ~~MR/DD~~-ID/DD employees 17251
explaining the conduct for which an ~~MR/DD~~-ID/DD employee may be 17252
included in the registry established under section 5123.52 of 17253
the Revised Code: 17254

(1) The department of developmental disabilities; 17255

(2) Each county board of developmental disabilities; 17256

(3) Each provider and subcontractor, as defined in section 17257
5123.081 of the Revised Code; 17258

(4) Each owner, operator, or administrator of a 17259
residential facility, as defined in section 5123.19 of the 17260
Revised Code; 17261

(5) Each owner, operator, or administrator of a program 17262
certified by the department to provide supported living. 17263

(B) The department of developmental disabilities or a 17264
county board of developmental disabilities shall provide the 17265
notice required by division (A) of this section to an ~~MR/DD~~- 17266

ID/DD employee who is an independent provider as defined in 17267
section 5123.16 of the Revised Code. 17268

(C) The notice described in division (A) of this section 17269
shall be in a form and provided in a manner prescribed by the 17270
department of developmental disabilities. The form shall be the 17271
same for all persons and entities required to provide notice 17272
under division (A) of this section. 17273

~~(C)~~ (D) The fact that an ~~MR/DD~~ ID/DD employee does not 17274
receive the notice required by this section does not exempt the 17275
employee from inclusion in the registry established under 17276
section 5123.52 of the Revised Code. 17277

Sec. 5123.55. As used in sections 5123.55 to 5123.59 of 17278
the Revised Code: 17279

(A) "Guardian" means a guardian of the person, limited 17280
guardian, interim guardian, or emergency guardian pursuant to 17281
appointment by the probate court under Chapter 2111. of the 17282
Revised Code. 17283

(B) "Trustee" means a trustee appointed by and accountable 17284
to the probate court, in lieu of a guardian and without a 17285
judicial determination of incompetency, with respect to an 17286
estate of ten thousand dollars or less. 17287

(C) "Protector" means an agency under contract with the 17288
department of developmental disabilities acting with or without 17289
court appointment to provide guidance, service, and 17290
encouragement in the development of maximum self-reliance to a 17291
person with ~~mental retardation~~ an intellectual or a 17292
developmental disability, independent of any determination of 17293
incompetency. 17294

(D) "Protective service" means performance of the duties 17295

of a guardian, trustee, or conservator, or acting as a 17296
protector, with respect to a person with ~~mental retardation~~ an 17297
intellectual or ~~a~~ developmental disability. 17298

(E) "Conservator" means a conservator of the person 17299
pursuant to an appointment by a probate court under Chapter 17300
2111. of the Revised Code. 17301

Sec. 5123.57. No guardianship or trusteeship appointment 17302
shall be made under sections 5123.55 to 5123.59 of the Revised 17303
Code and no person shall be accepted for service by a protector 17304
under those sections unless a comprehensive evaluation has been 17305
made in a clinic or other facility approved by the department of 17306
developmental disabilities. The evaluation shall include a 17307
medical, psychological, social, and educational evaluation, and 17308
a copy of the evaluation shall be filed with the department. 17309

Any agency that is appointed as a guardian, trustee, or 17310
conservator under sections 5123.55 to 5123.59 of the Revised 17311
Code or accepted as a protector under those sections shall 17312
provide for a review at least once each year in writing of the 17313
physical, mental, and social condition of each ~~mentally retarded~~ 17314
person with an intellectual or ~~developmentally disabled person~~ 17315
developmental disability for whom it is acting as guardian, 17316
trustee, or protector. An agency providing protective services 17317
under contract with the department shall file these reports with 17318
the department of developmental disabilities. Any record of the 17319
department or agency pertaining to a ~~mentally retarded person~~ 17320
with an intellectual or ~~developmentally disabled person~~ 17321
developmental disability shall not be a public record under 17322
section 149.43 of the Revised Code. Information contained in 17323
those records shall not be disclosed publicly in such a manner 17324
as to identify individuals, but may be made available to persons 17325

approved by the director of developmental disabilities or the court. 17326
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Sec. 5123.58. An agency providing protective services 17328
under contract with the department of developmental disabilities 17329
may be nominated under any of the following conditions as 17330
guardian, trustee, protector, conservator, or as trustee and 17331
protector of a ~~mentally retarded person with an intellectual~~ or 17332
~~developmentally disabled person~~ developmental disability: 17333

(A) The person who needs or believes the person needs 17334
protective service may make application in writing. 17335

(B) Any interested person may make application in writing 17336
on behalf of a ~~mentally retarded person with an intellectual~~ or 17337
~~developmentally disabled person~~ developmental disability. 17338

(C) A parent may name the department or agency as guardian 17339
or successor guardian in a will. 17340

(D) A parent may name the department or agency as 17341
guardian, trustee, or protector, to assume such duties during 17342
the parent's lifetime. 17343

If the results of the comprehensive evaluation required 17344
under section 5123.57 of the Revised Code indicate that the 17345
person named in the nomination is in need of protective 17346
services, the agency or service either shall reject or accept 17347
the nomination as guardian, trustee, or conservator, subject to 17348
appointment by the probate court, or reject or accept the 17349
nomination as protector, or trustee and protector. 17350

At the time the nomination is accepted or when an 17351
appointment is made by the court, the ~~mentally retarded person~~ 17352
~~with an intellectual~~ or ~~developmentally disabled person~~ 17353
developmental disability and any person who made application for 17354

service on ~~the mentally retarded or developmentally disabled~~ 17355
~~person's~~ behalf of a person with an intellectual or 17356
developmental disability under this section shall be informed by 17357
the agency, service, or court of the procedure for terminating 17358
the appointment or service. The agency or service shall cease to 17359
provide protective service as a protector pursuant to nomination 17360
under division (A), (B), or (D) of this section when a written 17361
request for termination is received by the agency from or on 17362
behalf of the ~~mentally retarded~~ person with an intellectual or 17363
~~developmentally disabled person~~ developmental disability. If the 17364
agency or service believes the person to be in need of 17365
protective service, the agency or service may file an 17366
application for guardianship, trusteeship, or protectorship with 17367
the probate court. Termination of any court appointment as 17368
guardian, trustee, or protector shall be by order of the probate 17369
court. 17370

Sec. 5123.601. (A) The Ohio protection and advocacy system 17371
staff, and attorneys designated by the system to represent 17372
persons detained, hospitalized, or institutionalized under this 17373
chapter or Chapter 5122. of the Revised Code shall have ready 17374
access to all of the following: 17375

(1) During normal business hours and at other reasonable 17376
times, all records, except records of community residential 17377
facilities and records of contract agencies of county boards of 17378
developmental disabilities and boards of alcohol, drug 17379
addiction, and mental health services, relating to expenditures 17380
of state and federal funds or to the commitment, care, 17381
treatment, and habilitation of all persons represented by the 17382
Ohio protection and advocacy system, including those who may be 17383
represented pursuant to division (D) of this section, or persons 17384
detained, hospitalized, institutionalized, or receiving services 17385

under this chapter or Chapter 340., 5119., 5122., or 5126. of 17386
the Revised Code that are records maintained by the following 17387
entities providing services for those persons: departments; 17388
institutions; hospitals; boards of alcohol, drug addiction, and 17389
mental health services; county boards of developmental 17390
disabilities; and any other entity providing services to persons 17391
who may be represented by the Ohio protection and advocacy 17392
system pursuant to division (D) of this section; 17393

(2) Any records maintained in computerized data banks of 17394
the departments or boards or, in the case of persons who may be 17395
represented by the Ohio protection and advocacy system pursuant 17396
to division (D) of this section, any other entity that provides 17397
services to those persons; 17398

(3) During their normal working hours, personnel of the 17399
departments, facilities, boards, agencies, institutions, 17400
hospitals, and other service-providing entities; 17401

(4) At any time, all persons detained, hospitalized, or 17402
institutionalized; persons receiving services under this chapter 17403
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 17404
persons who may be represented by the Ohio protection and 17405
advocacy system pursuant to division (D) of this section. 17406

(5) Records of a community residential facility, a 17407
contract agency of a board of alcohol, drug addiction, and 17408
mental health services, or a contract agency of a county board 17409
of developmental disabilities with one of the following 17410
consents: 17411

(a) The consent of the person, including when the person 17412
is a minor or has been adjudicated incompetent; 17413

(b) The consent of the person's guardian of the person, if 17414

any, or the parent if the person is a minor; 17415

(c) No consent, if the person is unable to consent for any 17416
reason, and the guardian of the person, if any, or the parent of 17417
the minor, has refused to consent or has not responded to a 17418
request for consent and either of the following has occurred: 17419

(i) A complaint regarding the person has been received by 17420
the Ohio protection and advocacy system; 17421

(ii) The Ohio protection and advocacy system has 17422
determined that there is probable cause to believe that such 17423
person has been subjected to abuse or neglect. 17424

(B) All records received or maintained by the Ohio 17425
protection and advocacy system in connection with any 17426
investigation, representation, or other activity under this 17427
section shall be confidential and shall not be disclosed except 17428
as authorized by the person represented by the Ohio protection 17429
and advocacy system or, subject to any privilege, a guardian of 17430
the person or parent of the minor. Relationships between 17431
personnel and the agents of the Ohio protection and advocacy 17432
system and its clients shall be fiduciary relationships, and all 17433
communications shall be privileged as if between attorney and 17434
client. 17435

(C) The Ohio protection and advocacy system may compel by 17436
subpoena the appearance and sworn testimony of any person the 17437
Ohio protection and advocacy system reasonably believes may be 17438
able to provide information or to produce any documents, books, 17439
records, papers, or other information necessary to carry out its 17440
duties. On the refusal of any person to produce or authenticate 17441
any requested documents, the Ohio protection and advocacy system 17442
may apply to the Franklin county court of common pleas to compel 17443

the production or authentication of requested documents. If the 17444
court finds that failure to produce or authenticate any 17445
requested documents was improper, the court may hold the person 17446
in contempt as in the case of disobedience of the requirements 17447
of a subpoena issued from the court, or a refusal to testify in 17448
the court. 17449

(D) In addition to providing services to mentally ill, ~~7~~ 17450
~~mentally retarded, or developmentally disabled persons~~ or 17451
persons with intellectual or developmental disabilities, when a 17452
grant authorizing the provision of services to other individuals 17453
is accepted by the Ohio protection and advocacy system, the Ohio 17454
protection and advocacy system may provide advocacy to those 17455
other individuals and exercise any other authority granted by 17456
this section on behalf of those individuals. Determinations of 17457
whether an individual is eligible for services under this 17458
division shall be made by the Ohio protection and advocacy 17459
system. 17460

Sec. 5123.61. (A) As used in this section: 17461

(1) "Law enforcement agency" means the state highway 17462
patrol, the police department of a municipal corporation, or a 17463
county sheriff. 17464

(2) "Abuse" has the same meaning as in section 5123.50 of 17465
the Revised Code, except that it includes a misappropriation, as 17466
defined in that section. 17467

(3) "Neglect" has the same meaning as in section 5123.50 17468
of the Revised Code. 17469

(B) The department of developmental disabilities shall 17470
establish a registry office for the purpose of maintaining 17471
reports of abuse, neglect, and other major unusual incidents 17472

made to the department under this section and reports received 17473
from county boards of developmental disabilities under section 17474
5126.31 of the Revised Code. The department shall establish 17475
committees to review reports of abuse, neglect, and other major 17476
unusual incidents. 17477

(C) (1) Any person listed in division (C) (2) of this 17478
section, having reason to believe that a person with ~~mental-~~ 17479
~~retardation-an intellectual~~ or a developmental disability has 17480
suffered or faces a substantial risk of suffering any wound, 17481
injury, disability, or condition of such a nature as to 17482
reasonably indicate abuse or neglect of that person, shall 17483
immediately report or cause reports to be made of such 17484
information to the entity specified in this division. Except as 17485
provided in section 5120.173 of the Revised Code or as otherwise 17486
provided in this division, the person making the report shall 17487
make it to a law enforcement agency or to the county board of 17488
developmental disabilities. If the report concerns a resident of 17489
a facility operated by the department of developmental 17490
disabilities the report shall be made either to a law 17491
enforcement agency or to the department. If the report concerns 17492
any act or omission of an employee of a county board of 17493
developmental disabilities, the report immediately shall be made 17494
to the department and to the county board. 17495

(2) All of the following persons are required to make a 17496
report under division (C) (1) of this section: 17497

(a) Any physician, including a hospital intern or 17498
resident, any dentist, podiatrist, chiropractor, practitioner of 17499
a limited branch of medicine as specified in section 4731.15 of 17500
the Revised Code, hospital administrator or employee of a 17501
hospital, nurse licensed under Chapter 4723. of the Revised 17502

Code, employee of an ambulatory health facility as defined in 17503
section 5101.61 of the Revised Code, employee of a home health 17504
agency, employee of a residential facility licensed under 17505
section 5119.34 of the Revised Code that provides 17506
accommodations, supervision, and person care services for three 17507
to sixteen unrelated adults, or employee of a community mental 17508
health facility; 17509

(b) Any school teacher or school authority, licensed 17510
professional clinical counselor, licensed professional 17511
counselor, independent social worker, social worker, independent 17512
marriage and family therapist, marriage and family therapist, 17513
psychologist, attorney, peace officer, coroner, or residents' 17514
rights advocate as defined in section 3721.10 of the Revised 17515
Code; 17516

(c) A superintendent, board member, or employee of a 17517
county board of developmental disabilities; an administrator, 17518
board member, or employee of a residential facility licensed 17519
under section 5123.19 of the Revised Code; an administrator, 17520
board member, or employee of any other public or private 17521
provider of services to a person with ~~mental retardation~~an 17522
intellectual or ~~a~~ developmental disability, or any ~~MR/DD~~ID/DD 17523
employee, as defined in section 5123.50 of the Revised Code; 17524

(d) A member of a citizen's advisory council established 17525
at an institution or branch institution of the department of 17526
developmental disabilities under section 5123.092 of the Revised 17527
Code; 17528

(e) A member of the clergy who is employed in a position 17529
that includes providing specialized services to an individual 17530
with ~~mental retardation~~an intellectual or another developmental 17531
disability, while acting in an official or professional capacity 17532

in that position, or a person who is employed in a position that 17533
includes providing specialized services to an individual with 17534
~~mental retardation~~an intellectual or another developmental 17535
disability and who, while acting in an official or professional 17536
capacity, renders spiritual treatment through prayer in 17537
accordance with the tenets of an organized religion. 17538

(3) (a) The reporting requirements of this division do not 17539
apply to employees of the Ohio protection and advocacy system. 17540

(b) An attorney or physician is not required to make a 17541
report pursuant to division (C) (1) of this section concerning 17542
any communication the attorney or physician receives from a 17543
client or patient in an attorney-client or physician-patient 17544
relationship, if, in accordance with division (A) or (B) of 17545
section 2317.02 of the Revised Code, the attorney or physician 17546
could not testify with respect to that communication in a civil 17547
or criminal proceeding, except that the client or patient is 17548
deemed to have waived any testimonial privilege under division 17549
(A) or (B) of section 2317.02 of the Revised Code with respect 17550
to that communication and the attorney or physician shall make a 17551
report pursuant to division (C) (1) of this section, if both of 17552
the following apply: 17553

(i) The client or patient, at the time of the 17554
communication, is a person with ~~mental retardation~~an 17555
intellectual or ~~a~~ developmental disability. 17556

(ii) The attorney or physician knows or suspects, as a 17557
result of the communication or any observations made during that 17558
communication, that the client or patient has suffered or faces 17559
a substantial risk of suffering any wound, injury, disability, 17560
or condition of a nature that reasonably indicates abuse or 17561
neglect of the client or patient. 17562

(4) Any person who fails to make a report required under 17563
division (C) of this section and who is an ~~MR/DD~~-ID/DD employee, 17564
as defined in section 5123.50 of the Revised Code, shall be 17565
eligible to be included in the registry regarding 17566
misappropriation, abuse, neglect, or other specified misconduct 17567
by ~~MR/DD~~-ID/DD employees established under section 5123.52 of 17568
the Revised Code. 17569

(D) The reports required under division (C) of this 17570
section shall be made forthwith by telephone or in person and 17571
shall be followed by a written report. The reports shall contain 17572
the following: 17573

(1) The names and addresses of the person with ~~mental-~~ 17574
~~retardation~~-an intellectual or ~~a~~-developmental disability and 17575
the person's custodian, if known; 17576

(2) The age of the person with ~~mental retardation~~-an 17577
intellectual or ~~a~~-developmental disability; 17578

(3) Any other information that would assist in the 17579
investigation of the report. 17580

(E) When a physician performing services as a member of 17581
the staff of a hospital or similar institution has reason to 17582
believe that a person with ~~mental retardation~~-an intellectual or 17583
~~a~~-developmental disability has suffered injury, abuse, or 17584
physical neglect, the physician shall notify the person in 17585
charge of the institution or that person's designated delegate, 17586
who shall make the necessary reports. 17587

(F) Any person having reasonable cause to believe that a 17588
person with ~~mental retardation~~-an intellectual or ~~a~~- 17589
developmental disability has suffered or faces a substantial 17590
risk of suffering abuse or neglect may report or cause a report 17591

to be made of that belief to the entity specified in this 17592
division. Except as provided in section 5120.173 of the Revised 17593
Code or as otherwise provided in this division, the person 17594
making the report shall make it to a law enforcement agency or 17595
the county board of developmental disabilities. If the person is 17596
a resident of a facility operated by the department of 17597
developmental disabilities, the report shall be made to a law 17598
enforcement agency or to the department. If the report concerns 17599
any act or omission of an employee of a county board of 17600
developmental disabilities, the report immediately shall be made 17601
to the department and to the county board. 17602

(G) (1) Upon the receipt of a report concerning the 17603
possible abuse or neglect of a person with ~~mental retardation~~ an 17604
intellectual or ~~a~~ developmental disability, the law enforcement 17605
agency shall inform the county board of developmental 17606
disabilities or, if the person is a resident of a facility 17607
operated by the department of developmental disabilities, the 17608
department. 17609

(2) On receipt of a report under this section that 17610
includes an allegation of action or inaction that may constitute 17611
a crime under federal law or the law of this state, the 17612
department of developmental disabilities shall notify the law 17613
enforcement agency. 17614

(3) When a county board of developmental disabilities 17615
receives a report under this section that includes an allegation 17616
of action or inaction that may constitute a crime under federal 17617
law or the law of this state, the superintendent of the board or 17618
an individual the superintendent designates under division (H) 17619
of this section shall notify the law enforcement agency. The 17620
superintendent or individual shall notify the department of 17621

developmental disabilities when it receives any report under 17622
this section. 17623

(4) When a county board of developmental disabilities 17624
receives a report under this section and believes that the 17625
degree of risk to the person is such that the report is an 17626
emergency, the superintendent of the board or an employee of the 17627
board the superintendent designates shall attempt a face-to-face 17628
contact with the person with ~~mental retardation~~ an intellectual 17629
or ~~a~~ developmental disability who allegedly is the victim within 17630
one hour of the board's receipt of the report. 17631

(H) The superintendent of the board may designate an 17632
individual to be responsible for notifying the law enforcement 17633
agency and the department when the county board receives a 17634
report under this section. 17635

(I) An adult with ~~mental retardation~~ an intellectual or ~~a~~ 17636
developmental disability about whom a report is made may be 17637
removed from the adult's place of residence only by law 17638
enforcement officers who consider that the adult's immediate 17639
removal is essential to protect the adult from further injury or 17640
abuse or in accordance with the order of a court made pursuant 17641
to section 5126.33 of the Revised Code. 17642

(J) A law enforcement agency shall investigate each report 17643
of abuse or neglect it receives under this section. In addition, 17644
the department, in cooperation with law enforcement officials, 17645
shall investigate each report regarding a resident of a facility 17646
operated by the department to determine the circumstances 17647
surrounding the injury, the cause of the injury, and the person 17648
responsible. The investigation shall be in accordance with the 17649
memorandum of understanding prepared under section 5126.058 of 17650
the Revised Code. The department shall determine, with the 17651

registry office which shall be maintained by the department, 17652
whether prior reports have been made concerning an adult with 17653
~~mental retardation~~ an intellectual or ~~a~~ developmental disability 17654
or other principals in the case. If the department finds that 17655
the report involves action or inaction that may constitute a 17656
crime under federal law or the law of this state, it shall 17657
submit a report of its investigation, in writing, to the law 17658
enforcement agency. If the person with ~~mental retardation~~ an 17659
intellectual or ~~a~~ developmental disability is an adult, with the 17660
consent of the adult, the department shall provide such 17661
protective services as are necessary to protect the adult. The 17662
law enforcement agency shall make a written report of its 17663
findings to the department. 17664

If the person is an adult and is not a resident of a 17665
facility operated by the department, the county board of 17666
developmental disabilities shall review the report of abuse or 17667
neglect in accordance with sections 5126.30 to 5126.33 of the 17668
Revised Code and the law enforcement agency shall make the 17669
written report of its findings to the county board. 17670

(K) Any person or any hospital, institution, school, 17671
health department, or agency participating in the making of 17672
reports pursuant to this section, any person participating as a 17673
witness in an administrative or judicial proceeding resulting 17674
from the reports, or any person or governmental entity that 17675
discharges responsibilities under sections 5126.31 to 5126.33 of 17676
the Revised Code shall be immune from any civil or criminal 17677
liability that might otherwise be incurred or imposed as a 17678
result of such actions except liability for perjury, unless the 17679
person or governmental entity has acted in bad faith or with 17680
malicious purpose. 17681

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with ~~mental retardation~~ an intellectual or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.611. (A) As used in this section, "~~MR/DD~~ ID/DD employee" means all of the following:

(1) An employee of the department of developmental disabilities;

(2) An employee of a county board of developmental disabilities;

(3) An employee in a position that includes providing specialized services, as defined in section 5123.50 of the Revised Code, to an individual with ~~mental retardation~~ an intellectual or ~~a~~ developmental disability.

(B) At the conclusion of a review of a report of abuse, neglect, or a major unusual incident that is conducted by a review committee established pursuant to section 5123.61 of the Revised Code, the committee shall issue recommendations to the department. The department shall review the committee's recommendations and issue a report of its findings. The department shall make the report available to all of the following:

(1) The individual with ~~mental retardation~~ an intellectual or ~~a~~ developmental disability who is the subject of the report;

(2) That individual's guardian or legal counsel;

(3) The licensee, as defined in section 5123.19 of the Revised Code, of a residential facility in which the individual resides;

(4) The employer of any ~~MR/DD~~ ID/DD employee who allegedly committed or was responsible for the abuse, neglect, or major unusual incident.

(C) Except as provided in this section, the department shall not disclose its report to any person or government entity that is not authorized to investigate reports of abuse, neglect, or other major unusual incidents, unless the individual with ~~mental retardation~~ an intellectual or ~~a~~ developmental disability who is the subject of the report or the individual's guardian gives the department written consent.

Sec. 5123.612. The director of developmental disabilities

shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the reporting of major unusual incidents and unusual incidents concerning persons with ~~mental retardation~~ intellectual or ~~a developmental disability~~ disabilities. The rules shall specify what constitutes a major unusual incident or an unusual incident.

Sec. 5123.614. (A) Subject to division (B) of this section, on receipt of a report of a major unusual incident made pursuant to section 5123.61 or 5126.31 of the Revised Code or rules adopted under section 5123.612 of the Revised Code, the department of developmental disabilities may do either of the following:

(1) Conduct an independent review or investigation of the incident;

(2) Request that an independent review or investigation of the incident be conducted by a county board of developmental disabilities that is not implicated in the report, a regional council of government, or any other entity authorized to conduct such investigations.

(B) If a report described in division (A) of this section concerning the health or safety of a person with ~~mental retardation~~ an intellectual or ~~a developmental disability~~ involves an allegation that an employee of a county board of developmental disabilities has created a substantial risk of serious physical harm to a person with ~~mental retardation~~ an intellectual or ~~a developmental disability~~, the department shall do one of the following:

(1) Conduct an independent investigation regarding the incident;

(2) Request that an independent review or investigation of the incident be conducted by a county board of developmental disabilities that is not implicated in the report, a regional council of government, or any other entity authorized to conduct such investigations.

Sec. 5123.62. The rights of persons with ~~mental-retardation-intellectual~~ or a ~~developmental disability~~ disabilities include, but are not limited to, the following:

(A) The right to be treated at all times with courtesy and respect and with full recognition of their dignity and individuality;

(B) The right to an appropriate, safe, and sanitary living environment that complies with local, state, and federal standards and recognizes the persons' need for privacy and independence;

(C) The right to food adequate to meet accepted standards of nutrition;

(D) The right to practice the religion of their choice or to abstain from the practice of religion;

(E) The right of timely access to appropriate medical or dental treatment;

(F) The right of access to necessary ancillary services, including, but not limited to, occupational therapy, physical therapy, speech therapy, and behavior modification and other psychological services;

(G) The right to receive appropriate care and treatment in the least intrusive manner;

(H) The right to privacy, including both periods of

privacy and places of privacy;	17797
(I) The right to communicate freely with persons of their choice in any reasonable manner they choose;	17798 17799
(J) The right to ownership and use of personal possessions so as to maintain individuality and personal dignity;	17800 17801
(K) The right to social interaction with members of either sex;	17802 17803
(L) The right of access to opportunities that enable individuals to develop their full human potential;	17804 17805
(M) The right to pursue vocational opportunities that will promote and enhance economic independence;	17806 17807
(N) The right to be treated equally as citizens under the law;	17808 17809
(O) The right to be free from emotional, psychological, and physical abuse;	17810 17811
(P) The right to participate in appropriate programs of education, training, social development, and habilitation and in programs of reasonable recreation;	17812 17813 17814
(Q) The right to participate in decisions that affect their lives;	17815 17816
(R) The right to select a parent or advocate to act on their behalf;	17817 17818
(S) The right to manage their personal financial affairs, based on individual ability to do so;	17819 17820
(T) The right to confidential treatment of all information in their personal and medical records, except to the extent that disclosure or release of records is permitted under sections	17821 17822 17823

5123.89 and 5126.044 of the Revised Code; 17824

(U) The right to voice grievances and recommend changes in 17825
policies and services without restraint, interference, coercion, 17826
discrimination, or reprisal; 17827

(V) The right to be free from unnecessary chemical or 17828
physical restraints; 17829

(W) The right to participate in the political process; 17830

(X) The right to refuse to participate in medical, 17831
psychological, or other research or experiments. 17832

Sec. 5123.63. Every state agency, county board of 17833
developmental disabilities, or political subdivision that 17834
provides services, either directly or through a contract, to 17835
persons with ~~mental retardation~~ intellectual or a developmental 17836
~~disability~~ disabilities shall give each provider a copy of the 17837
list of rights contained in section 5123.62 of the Revised Code. 17838
Each public and private provider of services shall carry out the 17839
requirements of this section in addition to any other posting or 17840
notification requirements imposed by local, state, or federal 17841
law or rules. 17842

The provider shall make copies of the list of rights and 17843
shall be responsible for an initial distribution of the list to 17844
each individual receiving services from the provider. If the 17845
individual is unable to read the list, the provider shall 17846
communicate the contents of the list to the individual to the 17847
extent practicable in a manner that the individual understands. 17848
The individual receiving services or the parent, guardian, or 17849
advocate of the individual shall sign an acknowledgement of 17850
receipt of a copy of the list of rights, and a copy of the 17851
signed acknowledgement shall be placed in the individual's file. 17852

The provider shall also be responsible for answering any 17853
questions and giving any explanations necessary to assist the 17854
individual to understand the rights enumerated. Instruction in 17855
these rights shall be documented. 17856

Each provider shall make available to all persons 17857
receiving services and all employees and visitors a copy of the 17858
list of rights and the addresses and telephone numbers of the 17859
Ohio protection and advocacy system, the department of 17860
developmental disabilities, and the county board of 17861
developmental disabilities of the county in which the provider 17862
provides services. 17863

Sec. 5123.64. (A) Every provider of services to persons 17864
with ~~mental retardation~~ intellectual or ~~a~~ developmental 17865
~~disability~~ disabilities shall establish policies and programs to 17866
ensure that all staff members are familiar with the rights 17867
enumerated in section 5123.62 of the Revised Code and observe 17868
those rights in their contacts with persons receiving services. 17869
Any policy, procedure, or rule of the provider that conflicts 17870
with any of the rights enumerated shall be null and void. Every 17871
provider shall establish written procedures for resolving 17872
complaints of violations of those rights. A copy of the 17873
procedures shall be provided to any person receiving services or 17874
to any parent, guardian, or advocate of a person receiving 17875
services. 17876

(B) Any person with ~~mental retardation~~ an intellectual or 17877
~~a~~ developmental disability who believes that the person's rights 17878
as enumerated in section 5123.62 of the Revised Code have been 17879
violated may: 17880

(1) Bring the violation to the attention of the provider 17881
for resolution; 17882

(2) Report the violation to the department of 17883
developmental disabilities, the Ohio protection and advocacy 17884
system, or the appropriate county board of developmental 17885
disabilities; 17886

(3) Take any other appropriate action to ensure compliance 17887
with sections 5123.61 to 5123.64 of the Revised Code, including 17888
the filing of a legal action to enforce rights or to recover 17889
damages for violation of rights. 17890

Sec. 5123.65. In addition to the rights specified in 17891
section 5123.62 of the Revised Code, individuals with ~~mental-~~ 17892
~~retardation-~~intellectual and developmental disabilities who can 17893
safely self-administer medication or receive assistance with 17894
self-administration of medication have the right to self- 17895
administer medication or receive assistance with the self- 17896
administration of medication. The department of developmental 17897
disabilities shall adopt rules as it considers necessary to 17898
implement and enforce this section. The rules shall be adopted 17899
in accordance with Chapter 119. of the Revised Code. 17900

Sec. 5123.651. (A) As used in this section, "~~MR/DD-ID/DD~~ 17901
personnel" and "prescribed medication" have the same meanings as 17902
in section 5123.41 of the Revised Code. 17903

(B) ~~MR/DD-ID/DD~~ personnel who are not specifically 17904
authorized by other provisions of the Revised Code to provide 17905
assistance in the self-administration of prescribed medication 17906
may, under this section, provide that assistance as part of the 17907
services they provide to individuals with ~~mental-retardation-~~ 17908
intellectual and developmental disabilities. To provide 17909
assistance with self-administration of prescribed medication, 17910
~~MR/DD-ID/DD~~ personnel are not required to be trained or 17911
certified in accordance with section 5123.42 of the Revised 17912

Code. 17913

(C) When assisting in the self-administration of 17914
prescribed medication, ~~MR/DD~~ID/DD personnel shall take only the 17915
following actions: 17916

(1) Remind an individual when to take the medication and 17917
observe the individual to ensure that the individual follows the 17918
directions on the container; 17919

(2) Assist an individual by taking the medication in its 17920
container from the area where it is stored, handing the 17921
container with the medication in it to the individual, and 17922
opening the container, if the individual is physically unable to 17923
open the container; 17924

(3) Assist, on request by or with the consent of, a 17925
physically impaired but mentally alert individual, with removal 17926
of oral or topical medication from the container and with the 17927
individual's taking or applying of the medication. If an 17928
individual is physically unable to place a dose of oral 17929
medication to the individual's mouth without spilling or 17930
dropping it, ~~MR/DD~~ID/DD personnel may place the dose in another 17931
container and place that container to the individual's mouth. 17932

Sec. 5123.67. This chapter shall be liberally interpreted 17933
to accomplish the following purposes: 17934

(A) To promote the human dignity and to protect the 17935
constitutional rights of persons with ~~mental retardation~~an 17936
intellectual or ~~a~~ developmental disability in the state; 17937

(B) To encourage the development of the ability and 17938
potential of each person with ~~mental retardation~~an intellectual 17939
or ~~a~~ developmental disability in the state to the fullest 17940
possible extent, no matter how severe the degree of disability; 17941

(C) To promote the economic security, standard of living, 17942
and meaningful employment of persons with ~~mental retardation~~ an 17943
intellectual or ~~a~~ developmental disability; 17944

(D) To maximize the assimilation of persons with ~~mental~~ 17945
~~retardation~~ an intellectual or ~~a~~ developmental disability into 17946
the ordinary life of the communities in which they live; 17947

(E) To promote opportunities for persons with ~~mental~~ 17948
~~retardation~~ an intellectual or ~~a~~ developmental disability to 17949
live in surroundings or circumstances that are typical for other 17950
community members; 17951

(F) To promote the right of persons with ~~mental~~ 17952
~~retardation~~ an intellectual or ~~a~~ developmental disability to 17953
speak and be heard about the desired direction of their lives 17954
and to use available resources in ways that further that 17955
direction. 17956

Sec. 5123.69. (A) Except as provided in division (D) of 17957
this section, any person who is eighteen years of age or older 17958
and who is or believes self to be ~~mentally retarded~~ a person 17959
with an intellectual disability may make written application to 17960
the managing officer of any institution for voluntary admission. 17961
Except as provided in division (D) of this section, the 17962
application may be made on behalf of a minor by a parent or 17963
guardian, and on behalf of an adult adjudicated mentally 17964
incompetent by a guardian. 17965

(B) The managing officer of an institution, with the 17966
concurrence of the chief program director, may admit a person 17967
applying pursuant to this section only after a comprehensive 17968
evaluation has been made of the person and only if the 17969
comprehensive evaluation concludes that the person is ~~mentally~~ 17970

~~retarded~~ has an intellectual disability and would benefit 17971
significantly from admission. 17972

(C) The managing officer shall discharge any voluntary 17973
resident if, in the judgment of the chief program director, the 17974
results of a comprehensive examination indicate that 17975
institutionalization no longer is advisable. In light of the 17976
results of the comprehensive evaluation, the managing officer 17977
also may discharge any voluntary resident if, in the judgment of 17978
the chief program director, the discharge would contribute to 17979
the most effective use of the institution in the habilitation 17980
and care of ~~the mentally retarded~~ persons with intellectual 17981
disabilities. 17982

(D) A person who is found incompetent to stand trial or 17983
not guilty by reason of insanity and who is committed pursuant 17984
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 17985
Revised Code shall not voluntarily commit self pursuant to this 17986
section until after the final termination of the commitment, as 17987
described in division (J) of section 2945.401 of the Revised 17988
Code. 17989

Sec. 5123.701. (A) Except as provided in division (D) of 17990
this section, any person in the community who is eighteen years 17991
of age or older and who is or believes self to be ~~mentally-~~ 17992
~~retarded~~ a person with an intellectual disability may make 17993
written application to the managing officer of any institution 17994
for temporary admission for short-term care. The application may 17995
be made on behalf of a minor by a parent or guardian, and on 17996
behalf of an adult adjudicated mentally incompetent by a 17997
guardian. 17998

(B) For purposes of this section, short-term care shall be 17999
defined to mean appropriate services provided to a person with 18000

~~mental retardation~~an intellectual disability for no more than 18001
fourteen consecutive days and for no more than forty-two days in 18002
a fiscal year. When circumstances warrant, the fourteen-day 18003
period may be extended at the discretion of the managing 18004
officer. Short-term care is provided in a developmental center 18005
to meet the family's or caretaker's needs for separation from 18006
the person with ~~mental retardation~~an intellectual disability. 18007

(C) The managing officer of an institution, with the 18008
concurrence of the chief program director, may admit a person 18009
for short-term care only after a medical examination has been 18010
made of the person and only if the managing officer concludes 18011
that the person ~~is mentally retarded~~has an intellectual 18012
disability. 18013

(D) A person who is found not guilty by reason of insanity 18014
shall not admit self to an institution for short-term care 18015
unless a hearing was held regarding the person pursuant to 18016
division (A) of section 2945.40 of the Revised Code and either 18017
of the following applies: 18018

(1) The person was found at the hearing not to be a 18019
~~mentally retarded~~person with an intellectual disability subject 18020
to institutionalization by court order; 18021

(2) The person was found at the hearing to be a ~~mentally~~ 18022
~~retarded~~person with an intellectual disability subject to 18023
institutionalization by court order, was involuntarily 18024
committed, and was finally discharged. 18025

(E) The ~~mentally retarded~~person with an intellectual 18026
disability, liable relatives, and guardians of ~~mentally retarded~~ 18027
persons with intellectual disabilities admitted for respite care 18028
shall pay support charges in accordance with sections 5121.01 to 18029

5121.21 of the Revised Code. 18030

(F) At the conclusion of each period of short-term care, 18031
the person shall return to the person's family or caretaker. 18032
Under no circumstances shall a person admitted for short-term 18033
care according to this section remain in the institution after 18034
the period of short-term care unless the person is admitted 18035
according to section 5123.70, sections 5123.71 to 5123.76, or 18036
section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 18037
Revised Code. 18038

Sec. 5123.71. (A) (1) Proceedings for the involuntary 18039
institutionalization of a person pursuant to sections 5123.71 to 18040
5123.76 of the Revised Code shall be commenced by the filing of 18041
an affidavit with the probate division of the court of common 18042
pleas of the county where the person resides or where the person 18043
is institutionalized, in the manner and form prescribed by the 18044
department of developmental disabilities either on information 18045
or actual knowledge, whichever is determined to be proper by the 18046
court. The affidavit may be filed only by a person who has 18047
custody of the individual as a parent, guardian, or service 18048
provider or by a person acting on behalf of the department or a 18049
county board of developmental disabilities. This section does 18050
not apply regarding the institutionalization of a person 18051
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 18052
the Revised Code. 18053

The affidavit shall contain an allegation setting forth 18054
the specific category or categories under division (O) of 18055
section 5123.01 of the Revised Code upon which the commencement 18056
of proceedings is based and a statement of the factual ground 18057
for the belief that the person is a ~~mentally retarded~~ person 18058
with an intellectual disability subject to institutionalization 18059

by court order. Except as provided in division (A) (2) of this section, the affidavit shall be accompanied by both of the following:

(a) A comprehensive evaluation report prepared by the person's evaluation team that includes a statement by the members of the team certifying that they have performed a comprehensive evaluation of the person and that they are of the opinion that the person is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order;

(b) An assessment report prepared by the county board of developmental disabilities under section 5123.711 of the Revised Code specifying that the individual is in need of services on an emergency or priority basis.

(2) In lieu of the comprehensive evaluation report, the affidavit may be accompanied by a written and sworn statement that the person or the guardian of a person adjudicated incompetent has refused to allow a comprehensive evaluation and county board assessment and assessment reports. Immediately after accepting an affidavit that is not accompanied by the reports of a comprehensive evaluation and county board assessment, the court shall cause a comprehensive evaluation and county board assessment of the person named in the affidavit to be performed. The evaluation shall be conducted in the least restrictive environment possible and the assessment shall be conducted in the same manner as assessments conducted under section 5123.711 of the Revised Code. The evaluation and assessment must be completed before a probable cause hearing or full hearing may be held under section 5123.75 or 5123.76 of the Revised Code.

A written report of the evaluation team's findings and the county board's assessment shall be filed with the court. The reports shall, consistent with the rules of evidence, be accepted as probative evidence in any proceeding under section 5123.75 or 5123.76 of the Revised Code. If the counsel for the person who is evaluated or assessed is known, the court shall send to the counsel a copy of the reports as soon as possible after they are filed and prior to any proceedings under section 5123.75 or 5123.76 of the Revised Code.

(B) Any person who is involuntarily detained in an institution or otherwise is in custody under this chapter shall be informed of the right to do the following:

(1) Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, or both, to contact any other person or persons to secure representation by counsel, or to obtain medical assistance, and be provided assistance in making calls if the assistance is needed and requested;

(2) Retain counsel and have independent expert evaluation and, if the person is an indigent person, be represented by court-appointed counsel and have independent expert evaluation at court expense;

(3) Upon request, have a hearing to determine whether there is probable cause to believe that the person is a ~~mentally-retarded~~ person with an intellectual disability subject to institutionalization by court order.

(C) No person who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing may be ordered detained or involuntarily

committed unless the court has determined that the person 18119
represents a very substantial risk of self-impairment, self- 18120
injury, or impairment or injury to others. 18121

Sec. 5123.74. (A) On receipt of an affidavit under section 18122
5123.71 of the Revised Code, the probate division of the court 18123
of common pleas may, if it has probable cause to believe that 18124
the person named in the affidavit is a ~~mentally retarded~~ person 18125
with an intellectual disability subject to institutionalization 18126
by court order and that emergency institutionalization is 18127
required, do any of the following: 18128

(1) Issue a temporary order of detention ordering any 18129
health or police officer or sheriff to take into custody and 18130
transport such person to an institution or other place as 18131
designated in section 5123.77 of the Revised Code; 18132

(2) Order the county board of developmental disabilities 18133
to provide services to the individual in the community if the 18134
board's assessment of the individual conducted under section 18135
5123.711 of the Revised Code identifies that resources are 18136
available to meet the individual's needs in an appropriate 18137
manner within the community as an alternative to 18138
institutionalization; 18139

(3) Set the matter for further hearing. 18140

(B) A managing officer of a nonpublic institution may, and 18141
the managing officer of a public institution shall, receive for 18142
observation, diagnosis, habilitation, and care any person whose 18143
admission is ordered pursuant to division (A) (1) of this 18144
section. 18145

The alternatives to institutionalization that may be 18146
ordered under division (A) (2) of this section are limited to 18147

those that are necessary to remediate the emergency condition; 18148
necessary for the person's health, safety or welfare; and 18149
necessary for the protection of society, if applicable. 18150

(C) A person detained under this section may be observed 18151
and habilitated until the probable cause hearing provided for in 18152
section 5123.75 of the Revised Code. If no probable cause 18153
hearing is requested or held, the person may be evaluated and 18154
shall be provided with habilitative services until the full 18155
hearing is held pursuant to section 5123.76 of the Revised Code. 18156

Sec. 5123.75. A respondent who is involuntarily placed in 18157
an institution or other place as designated in section 5123.77 18158
of the Revised Code or with respect to whom proceedings have 18159
been instituted under section 5123.71 of the Revised Code shall, 18160
on request of the respondent, the respondent's guardian, or the 18161
respondent's counsel, or upon the court's own motion, be 18162
afforded a hearing to determine whether there is probable cause 18163
to believe that the respondent is a ~~mentally retarded~~ person 18164
with an intellectual disability subject to institutionalization 18165
by court order. 18166

(A) The probable cause hearing shall be conducted within 18167
two court days from the day on which the request is made. 18168
Failure to conduct the probable cause hearing within this time 18169
shall effect an immediate discharge of the respondent. If the 18170
proceedings are not reinstated within thirty days, records of 18171
the proceedings shall be expunged. 18172

(B) The respondent shall be informed that the respondent 18173
may retain counsel and have independent expert evaluation and, 18174
if the respondent is an indigent person, be represented by court 18175
appointed counsel and have independent expert evaluation at 18176
court expense. 18177

(C) The probable cause hearing shall be conducted in a 18178
manner consistent with the procedures set forth in division (A) 18179
of section 5123.76 of the Revised Code, except divisions (A) (10) 18180
and (14) of that section, and the designee of the director of 18181
developmental disabilities under section 5123.72 of the Revised 18182
Code shall present evidence for the state. 18183

(D) If the court does not find probable cause to believe 18184
that the respondent is a ~~mentally retarded~~ person with an 18185
intellectual disability subject to institutionalization by court 18186
order, it shall order immediate release of the respondent and 18187
dismiss and expunge all record of the proceedings under this 18188
chapter. 18189

(E) On motion of the respondent or the respondent's 18190
counsel and for good cause shown, the court may order a 18191
continuance of the hearing. 18192

(F) If the court finds probable cause to believe that the 18193
respondent is a ~~mentally retarded~~ person with an intellectual 18194
disability subject to institutionalization by court order, the 18195
court may issue an interim order of placement and, where 18196
proceedings under section 5123.71 of the Revised Code have been 18197
instituted, shall order a full hearing as provided in section 18198
5123.76 of the Revised Code to be held on the question of 18199
whether the respondent is a ~~mentally retarded~~ person with an 18200
intellectual disability subject to institutionalization by court 18201
order. Unless specifically waived by the respondent or the 18202
respondent's counsel, the court shall schedule said hearing to 18203
be held as soon as possible within ten days from the probable 18204
cause hearing. A waiver of such full hearing at this point shall 18205
not preclude the respondent from asserting the respondent's 18206
right to such hearing under section 5123.76 of the Revised Code 18207

at any time prior to the mandatory hearing provided in division 18208
(H) of section 5123.76 of the Revised Code. In any case, if the 18209
respondent has waived the right to the full hearing, a mandatory 18210
hearing shall be held under division (H) of section 5123.76 of 18211
the Revised Code between the ninetieth and the one hundredth day 18212
after the original involuntary detention of the person unless 18213
the respondent has been discharged. 18214

(G) Whenever possible, the probable cause hearing shall be 18215
held before the respondent is taken into custody. 18216

Sec. 5123.76. (A) The full hearing shall be conducted in a 18217
manner consistent with the procedures outlined in this chapter 18218
and with due process of law. The hearing shall be held by a 18219
judge of the probate division or, upon transfer by the judge of 18220
the probate division, by another judge of the court of common 18221
pleas, or a referee designated by the judge of the probate 18222
division. Any referee designated by the judge of the probate 18223
division must be an attorney. 18224

(1) The following shall be made available to counsel for 18225
the respondent: 18226

(a) All relevant documents, information, and evidence in 18227
the custody or control of the state or prosecutor; 18228

(b) All relevant documents, information, and evidence in 18229
the custody or control of the institution, facility, or program 18230
in which the respondent currently is held or in which the 18231
respondent has been held pursuant to these proceedings; 18232

(c) With the consent of the respondent, all relevant 18233
documents, information, and evidence in the custody or control 18234
of any institution or person other than the state. 18235

(2) The respondent has the right to be represented by 18236

counsel of the respondent's choice and has the right to attend 18237
the hearing except if unusual circumstances of compelling 18238
medical necessity exist that render the respondent unable to 18239
attend and the respondent has not expressed a desire to attend. 18240

(3) If the respondent is not represented by counsel and 18241
the court determines that the conditions specified in division 18242
(A) (2) of this section justify the respondent's absence and the 18243
right to counsel has not been validly waived, the court shall 18244
appoint counsel forthwith to represent the respondent at the 18245
hearing, reserving the right to tax costs of appointed counsel 18246
to the respondent unless it is shown that the respondent is 18247
indigent. If the court appoints counsel, or if the court 18248
determines that the evidence relevant to the respondent's 18249
absence does not justify the absence, the court shall continue 18250
the case. 18251

(4) The respondent shall be informed of the right to 18252
retain counsel, to have independent expert evaluation, and, if 18253
an indigent person, to be represented by court appointed counsel 18254
and have expert independent evaluation at court expense. 18255

(5) The hearing may be closed to the public unless counsel 18256
for the respondent requests that the hearing be open to the 18257
public. 18258

(6) Unless objected to by the respondent, the respondent's 18259
counsel, or the designee of the director of developmental 18260
disabilities under section 5123.72 of the Revised Code, the 18261
court, for good cause shown, may admit persons having a 18262
legitimate interest in the proceedings. 18263

(7) The affiant under section 5123.71 of the Revised Code 18264
shall be subject to subpoena by either party. 18265

(8) The court shall examine the sufficiency of all 18266
documents filed and shall inform the respondent, if present, and 18267
the respondent's counsel of the nature of the content of the 18268
documents and the reason for which the respondent is being held 18269
or for which the respondent's placement is being sought. 18270

(9) The court shall receive only relevant, competent, and 18271
material evidence. 18272

(10) In accordance with section 5123.72 of the Revised 18273
Code, the designee of the director shall present the evidence 18274
for the state. In proceedings under this chapter, the attorney 18275
general shall present the comprehensive evaluation, assessment, 18276
diagnosis, prognosis, record of habilitation and care, if any, 18277
and less restrictive habilitation plans, if any. The attorney 18278
general does not have a similar presentation responsibility in 18279
connection with a person who has been found not guilty by reason 18280
of insanity and who is the subject of a hearing under section 18281
2945.40 of the Revised Code to determine whether the person is a 18282
~~mentally retarded person with an intellectual disability~~ subject 18283
to institutionalization by court order. 18284

(11) The respondent has the right to testify and the 18285
respondent or the respondent's counsel has the right to subpoena 18286
witnesses and documents and to present and cross-examine 18287
witnesses. 18288

(12) The respondent shall not be compelled to testify and 18289
shall be so advised by the court. 18290

(13) On motion of the respondent or the respondent's 18291
counsel for good cause shown, or upon the court's own motion, 18292
the court may order a continuance of the hearing. 18293

(14) To an extent not inconsistent with this chapter, the 18294

Rules of Civil Procedure shall be applicable. 18295

(B) Unless, upon completion of the hearing, the court 18296
finds by clear and convincing evidence that the respondent named 18297
in the affidavit is a ~~mentally retarded person with an~~ 18298
intellectual disability subject to institutionalization by court 18299
order, it shall order the respondent's discharge forthwith. 18300

(C) If, upon completion of the hearing, the court finds by 18301
clear and convincing evidence that the respondent is a ~~mentally~~ 18302
~~retarded person with an~~ intellectual disability subject to 18303
institutionalization by court order, the court may order the 18304
respondent's discharge or order the respondent, for a period not 18305
to exceed ninety days, to any of the following: 18306

(1) A public institution, provided that commitment of the 18307
respondent to the institution will not cause the institution to 18308
exceed its licensed capacity determined in accordance with 18309
section 5123.19 of the Revised Code and provided that such a 18310
placement is indicated by the comprehensive evaluation report 18311
filed pursuant to section 5123.71 of the Revised Code; 18312

(2) A private institution; 18313

(3) A county ~~mental retardation program for persons with~~ 18314
intellectual disabilities; 18315

(4) Receive private habilitation and care; 18316

(5) Any other suitable facility, program, or the care of 18317
any person consistent with the comprehensive evaluation, 18318
assessment, diagnosis, prognosis, and habilitation needs of the 18319
respondent. 18320

(D) Any order made pursuant to division (C) (2), (4), or 18321
(5) of this section shall be conditional upon the receipt by the 18322

court of consent by the facility, program, or person to accept the respondent. 18323
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(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the comprehensive evaluation, assessment, diagnosis, and projected habilitation plan for the respondent, and shall order the implementation of the least restrictive alternative available and consistent with habilitation goals. 18325
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(F) If, at any time it is determined by the director of the facility or program to which, or the person to whom, the respondent is committed that the respondent could be equally well habilitated in a less restrictive environment that is available, the following shall occur: 18331
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(1) The respondent shall be released by the director of the facility or program or by the person forthwith and referred to the court together with a report of the findings and recommendations of the facility, program, or person. 18336
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(2) The director of the facility or program or the person shall notify the respondent's counsel and the designee of the director of developmental disabilities. 18340
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(3) The court shall dismiss the case or order placement in the less restrictive environment. 18343
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(G) (1) Except as provided in divisions (G) (2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised Code. Upon admission of a voluntary resident, the managing officer immediately shall notify the court, the respondent's counsel, and the designee of the director in 18345
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writing of that fact by mail or otherwise, and, upon receipt of 18352
the notice, the court shall dismiss the case. 18353

(2) A person who is found incompetent to stand trial or 18354
not guilty by reason of insanity and who is committed pursuant 18355
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 18356
Revised Code shall not be voluntarily admitted to an institution 18357
pursuant to division (G)(1) of this section until after the 18358
termination of the commitment, as described in division (J) of 18359
section 2945.401 of the Revised Code. 18360

(H) If, at the end of any commitment period, the 18361
respondent has not already been discharged or has not requested 18362
voluntary admission status, the director of the facility or 18363
program, or the person to whose care the respondent has been 18364
committed, shall discharge the respondent forthwith, unless at 18365
least ten days before the expiration of that period the designee 18366
of the director of developmental disabilities or the prosecutor 18367
files an application with the court requesting continued 18368
commitment. 18369

(1) An application for continued commitment shall include 18370
a written report containing a current comprehensive evaluation 18371
and assessment, a diagnosis, a prognosis, an account of progress 18372
and past habilitation, and a description of alternative 18373
habilitation settings and plans, including a habilitation 18374
setting that is the least restrictive setting consistent with 18375
the need for habilitation. A copy of the application shall be 18376
provided to respondent's counsel. The requirements for notice 18377
under section 5123.73 of the Revised Code and the provisions of 18378
divisions (A) to (E) of this section apply to all hearings on 18379
such applications. 18380

(2) A hearing on the first application for continued 18381

commitment shall be held at the expiration of the first ninety- 18382
day period. The hearing shall be mandatory and may not be 18383
waived. 18384

(3) Subsequent periods of commitment not to exceed one 18385
hundred eighty days each may be ordered by the court if the 18386
designee of the director of developmental disabilities files an 18387
application for continued commitment, after a hearing is held on 18388
the application or without a hearing if no hearing is requested 18389
and no hearing required under division (H) (4) of this section is 18390
waived. Upon the application of a person involuntarily committed 18391
under this section, supported by an affidavit of a licensed 18392
physician alleging that the person is no longer a ~~mentally-~~ 18393
~~retarded~~ person with an intellectual disability subject to 18394
institutionalization by court order, the court for good cause 18395
shown may hold a full hearing on the person's continued 18396
commitment prior to the expiration of any subsequent period of 18397
commitment set by the court. 18398

(4) A mandatory hearing shall be held at least every two 18399
years after the initial commitment. 18400

(5) If the court, after a hearing upon a request to 18401
continue commitment, finds that the respondent is a ~~mentally-~~ 18402
~~retarded~~ person with an intellectual disability subject to 18403
institutionalization by court order, the court may make an order 18404
pursuant to divisions (C), (D), and (E) of this section. 18405

(I) Notwithstanding the provisions of division (H) of this 18406
section, no person who is found to be a ~~mentally-retarded~~ 18407
person with an intellectual disability subject to institutionalization 18408
by court order pursuant to division (O) (2) of section 5123.01 of 18409
the Revised Code shall be held under involuntary commitment for 18410
more than five years. 18411

(J) The managing officer admitting a person pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the department.

Sec. 5123.79. (A) Notwithstanding a finding pursuant to section 5123.76 of the Revised Code that a person is a ~~mentally-retarded~~ person with an intellectual disability subject to institutionalization by court order, the managing officer of an institution, with the concurrence of the chief program director, shall, except as provided in division (C) of this section, grant a discharge without the consent or the authorization of any court upon a determination that institutionalization no longer is appropriate. Upon the discharge, the managing officer of the institution shall notify the probate division of the court of common pleas that made the involuntary commitment.

(B) Upon the request of the director of a private institution, program, facility, or person having custody of a resident institutionalized pursuant to section 5123.76 of the Revised Code, or on the order of the probate division of the court of common pleas, the resident may be called for a rehearing to determine the advisability of continued institutionalization at a place within the county of resident's residence or the county where the resident is institutionalized as the probate division designates. The hearing shall be held pursuant to section 5123.76 of the Revised Code.

Sec. 5123.80. (A) When the chief program director of an institution for ~~the mentally-retarded~~ persons with intellectual disabilities considers that it is in the best interest of a resident, the managing officer may permit the resident to leave the institution on a trial visit. The trial visit shall be for the period of time the managing officer determines.

(B) The managing officer, upon releasing a resident on trial visit, may impose such requirements and conditions upon the resident while the resident is absent from the institution as are consistent with the habilitation plan.

(C) The managing officer of the institution from which an involuntary resident is given trial visit status may at any time revoke the trial visit if there is reason to believe that it is in the best interests of the resident to be returned to the institution.

(D) If the revocation is not voluntarily complied with the managing officer, within five days, shall authorize any health or police officer, or sheriff to take the resident into custody and transport the resident to the institution.

(E) An involuntarily committed resident who has successfully completed one year of continuous trial visit shall be automatically discharged.

Sec. 5123.81. When an involuntarily committed resident of an institution for ~~the mentally retarded persons with~~ intellectual disabilities is absent without leave, an order shall be issued within five days after the resident's absence requiring the resident to be taken into custody by any health or police officer, or sheriff and transported to the institution from which the resident is absent. The order may be issued by the director of developmental disabilities, the managing officer of the institution from which the resident is absent, or the probate judge of the county from which the resident was ordered institutionalized or in which he is found. The officer who takes the resident into custody shall immediately notify the issuer of the order.

Sec. 5123.82. (A) Any person who has been 18471
institutionalized under this chapter may, at any time after 18472
discharge from such institution, make application to the 18473
managing officer of any public institution for habilitation and 18474
care if such person feels the person is in need of such 18475
services. If the chief program director determines the applicant 18476
to be in need of such services, the managing officer may provide 18477
such services as are required by the applicant. 18478

(B) Any person may apply to the managing officer of any 18479
public institution for habilitation and care if such person 18480
feels the person is in need of such services. If the person's 18481
condition warrants, ~~the person's~~ person may be enrolled as an 18482
outpatient and, during such enrollment, the person may receive 18483
services subject to Chapter 5121. of the Revised Code. 18484

(C) The application prescribed in division (A) or (B) of 18485
this section may also be made on behalf of a minor by a parent, 18486
guardian, or custodian of a minor, and on behalf of an adult 18487
adjudicated incompetent by the guardian or custodian of the 18488
adult. 18489

(D) The managing officer of the public institution may 18490
refer any discharged resident who makes an application under 18491
this section to the director of any community ~~mental retardation~~ 18492
program for persons with intellectual disabilities serving the 18493
county in which such resident resides, or to such other facility 18494
as the director of developmental disabilities may designate. 18495
Upon notice of such referral, the director of such program may 18496
provide the services required by the applicant. 18497

Sec. 5123.83. No person shall be deprived of any civil 18498
right, or public or private employment, solely by reason of ~~his~~ 18499
the person's having received services, voluntarily or 18500

involuntarily, for ~~mental retardation~~ an intellectual disability 18501
or ~~a~~ developmental disability. Any person in custody, 18502
voluntarily or involuntarily, under the provisions of this 18503
chapter, retains all rights not specifically denied ~~him~~ the 18504
person under this or any other chapter of the Revised Code. 18505

Sec. 5123.84. All residents of institutions for ~~the~~ 18506
~~mentally retarded~~ persons with intellectual disabilities shall 18507
be allowed to communicate freely with others, including but not 18508
restricted to the following: 18509

(A) Receiving visitors at reasonable times; 18510

(B) Being visited by counsel or personal physician, or 18511
both, at any reasonable time; 18512

(C) Having reasonable access to telephones to make and 18513
receive confidential calls, including a reasonable number of 18514
free calls if unable to pay for them and assistance in calling 18515
if requested and needed; 18516

(D) Having ready access to letter writing materials and 18517
stamps, including a reasonable number without cost if the 18518
resident is unable to pay for them, to mailing and receiving 18519
unopened correspondence, and to receiving assistance in writing 18520
if requested and needed. 18521

Sec. 5123.85. (A) All residents institutionalized pursuant 18522
to this chapter shall receive, within thirty days of their 18523
admission, a comprehensive evaluation, a diagnosis, a prognosis, 18524
and a description of habilitation goals consistent therewith. 18525

(B) All such residents shall have a written habilitation 18526
plan consistent with the comprehensive evaluation, diagnosis, 18527
prognosis, and goals which shall be provided, upon request of 18528
resident or resident's counsel, to resident's counsel and to any 18529

private physician designated by the resident or the resident's
counsel. 18530
18531

(C) All such residents shall receive habilitation and care 18532
consistent with the habilitation plan. The department of 18533
developmental disabilities shall set standards for habilitation 18534
and care provided to such residents, consistent wherever 18535
possible with standards set by the joint commission on 18536
accreditation of facilities for ~~the mentally retarded~~ persons
with intellectual disabilities. 18537
18538

(D) All such residents shall receive periodic 18539
comprehensive re-evaluations of the habilitation plan by the 18540
professional staff of the institution at intervals not to exceed 18541
ninety days. 18542

(E) All such residents shall be provided with prompt and 18543
adequate medical treatment for any physical or mental disease or 18544
injury. 18545

Sec. 5123.86. (A) Except as provided in divisions (C), 18546
(D), (E), and (F) of this section, the chief medical officer 18547
shall provide all information, including expected physical and 18548
medical consequences, necessary to enable any resident of an 18549
institution for ~~the mentally retarded~~ persons with intellectual
disabilities to give a fully informed, intelligent, and knowing 18550
consent if any of the following procedures are proposed: 18551
18552

(1) Surgery; 18553

(2) Convulsive therapy; 18554

(3) Major aversive interventions; 18555

(4) Sterilization; 18556

(5) Experimental procedures; 18557

(6) Any unusual or hazardous treatment procedures. 18558

(B) No resident shall be subjected to any of the 18559
procedures listed in division (A) (4), (5), or (6) of this 18560
section without the resident's informed consent. 18561

(C) If a resident is physically or mentally unable to 18562
receive the information required for surgery under division (A) 18563
(1) of this section, or has been adjudicated incompetent, the 18564
information may be provided to the resident's natural or court- 18565
appointed guardian, including an agency providing guardianship 18566
services under contract with the department of developmental 18567
disabilities under sections 5123.55 to 5123.59 of the Revised 18568
Code, who may give the informed, intelligent, and knowing 18569
written consent for surgery. Consent for surgery shall not be 18570
provided by a guardian who is an officer or employee of the 18571
department of mental health and addiction services or the 18572
department of developmental disabilities. 18573

If a resident is physically or mentally unable to receive 18574
the information required for surgery under division (A) (1) of 18575
this section and has no guardian, then the information, the 18576
recommendation of the chief medical officer, and the concurring 18577
judgment of a licensed physician who is not a full-time employee 18578
of the state may be provided to the court in the county in which 18579
the institution is located, which may approve the surgery. 18580
Before approving the surgery, the court shall notify the Ohio 18581
protection and advocacy system created by section 5123.60 of the 18582
Revised Code, and shall notify the resident of the resident's 18583
rights to consult with counsel, to have counsel appointed by the 18584
court if the resident is indigent, and to contest the 18585
recommendation of the chief medical officer. 18586

(D) If, in the judgment of two licensed physicians, delay 18587

in obtaining consent for surgery would create a grave danger to 18588
the health of a resident, emergency surgery may be performed 18589
without the consent of the resident if the necessary information 18590
is provided to the resident's guardian, including an agency 18591
providing guardianship services under contract with the 18592
department of developmental disabilities under sections 5123.55 18593
to 5123.59 of the Revised Code, or to the resident's spouse or 18594
next of kin to enable that person or agency to give an informed, 18595
intelligent, and knowing written consent. 18596

If the guardian, spouse, or next of kin cannot be 18597
contacted through exercise of reasonable diligence, or if the 18598
guardian, spouse, or next of kin is contacted, but refuses to 18599
consent, then the emergency surgery may be performed upon the 18600
written authorization of the chief medical officer and after 18601
court approval has been obtained. However, if delay in obtaining 18602
court approval would create a grave danger to the life of the 18603
resident, the chief medical officer may authorize surgery, in 18604
writing, without court approval. If the surgery is authorized 18605
without court approval, the chief medical officer who made the 18606
authorization and the physician who performed the surgery shall 18607
each execute an affidavit describing the circumstances 18608
constituting the emergency and warranting the surgery and the 18609
circumstances warranting their not obtaining prior court 18610
approval. The affidavit shall be filed with the court with which 18611
the request for prior approval would have been filed within five 18612
court days after the surgery, and a copy of the affidavit shall 18613
be placed in the resident's file and shall be given to the 18614
guardian, spouse, or next of kin of the resident, to the 18615
hospital at which the surgery was performed, and to the Ohio 18616
protection and advocacy system created by section 5123.60 of the 18617
Revised Code. 18618

(E) (1) If it is the judgment of two licensed physicians, 18619
as described in division (E) (2) of this section, that a medical 18620
emergency exists and delay in obtaining convulsive therapy 18621
creates a grave danger to the life of a resident who is both 18622
~~mentally retarded~~ an intellectually disabled person and a 18623
mentally ill person, convulsive therapy may be administered 18624
without the consent of the resident if the resident is 18625
physically or mentally unable to receive the information 18626
required for convulsive therapy and if the necessary information 18627
is provided to the resident's natural or court-appointed 18628
guardian, including an agency providing guardianship services 18629
under contract with the department of developmental disabilities 18630
under sections 5123.55 to 5123.59 of the Revised Code, or to the 18631
resident's spouse or next of kin to enable that person or agency 18632
to give an informed, intelligent, and knowing written consent. 18633
If neither the resident's guardian, spouse, nor next of kin can 18634
be contacted through exercise of reasonable diligence, or if the 18635
guardian, spouse, or next of kin is contacted, but refuses to 18636
consent, then convulsive therapy may be performed upon the 18637
written authorization of the chief medical officer and after 18638
court approval has been obtained. 18639

(2) The two licensed physicians referred to in division 18640
(E) (1) of this section shall not be associated with each other 18641
in the practice of medicine or surgery by means of a partnership 18642
or corporate arrangement, other business arrangement, or 18643
employment. At least one of the physicians shall be a 18644
psychiatrist as defined in division (E) of section 5122.01 of 18645
the Revised Code. 18646

(F) Major aversive interventions shall not be used unless 18647
a resident continues to engage in behavior destructive to self 18648
or others after other forms of therapy have been attempted. 18649

Major aversive interventions shall not be applied to a voluntary 18650
resident without the informed, intelligent, and knowing written 18651
consent of the resident or the resident's guardian, including an 18652
agency providing guardianship services under contract with the 18653
department of developmental disabilities under sections 5123.55 18654
to 5123.59 of the Revised Code. 18655

(G) (1) This chapter does not authorize any form of 18656
compulsory medical or psychiatric treatment of any resident who 18657
is being treated by spiritual means through prayer alone in 18658
accordance with a recognized religious method of healing. 18659

(2) For purposes of this section, "convulsive therapy" 18660
does not include defibrillation. 18661

Sec. 5123.87. (A) No resident of an institution for ~~the~~ 18662
~~mentally retarded~~ persons with intellectual disabilities shall 18663
be compelled to perform labor which involves the operation, 18664
support, or maintenance of the institution or for which the 18665
institution is under contract with an outside organization. 18666
Privileges or release from the institution shall not be 18667
conditional upon the performance of such labor. Residents who 18668
volunteer to perform such labor shall be compensated at a rate 18669
derived from the value of the work performed, having reference 18670
to the prevailing wage rate for comparable work or wage rates 18671
established under section 4111.06 of the Revised Code. 18672

(B) A resident may be required to perform habilitative 18673
tasks which do not involve the operation, support, or 18674
maintenance of the institution if those tasks are an integrated 18675
part of the resident's habilitation plan and supervised by a 18676
~~mental retardation~~ an intellectual disability professional 18677
designated by the chief program director. 18678

(C) A resident may be required to perform tasks of a personal housekeeping nature.

Sec. 5123.88. Any person detained pursuant to this chapter shall be entitled to the writ of habeas corpus upon proper petition by ~~himself~~ self or a friend to any court generally empowered to issue the writ of habeas corpus in the county in which the person is detained.

No person may bring a petition for a writ of habeas corpus that alleges that a person involuntarily detained pursuant to this chapter is no longer ~~mentally retarded~~ a person with an intellectual disability subject to institutionalization by court order unless the person shows that the release procedures of division (H) of section 5123.76 of the Revised Code are inadequate or unavailable.

Sec. 5123.89. (A) As used in this section:

(1) "Family" means a parent, brother, sister, spouse, son, daughter, grandparent, aunt, uncle, or cousin.

(2) "Payment" means activities undertaken by a service provider or government entity to obtain or provide reimbursement for services provided to a person.

(3) "Treatment" means the provision of services to a person, including the coordination or management of services provided to the person.

(B) All certificates, applications, records, and reports made for the purpose of this chapter, other than court journal entries or court docket entries, which directly or indirectly identify a resident or former resident of an institution for ~~the mentally retarded~~ persons with intellectual disabilities or person whose institutionalization has been sought under this

chapter shall be kept confidential and shall not be disclosed by 18708
any person except in the following situations: 18709

(1) It is the judgment of the court for judicial records, 18710
and the managing officer for institution records, that 18711
disclosure is in the best interest of the person identified, and 18712
that person or that person's guardian or, if that person is a 18713
minor, that person's parent or guardian consents. 18714

(2) Disclosure is provided for in other sections of this 18715
chapter. 18716

(3) It is the judgment of the managing officer for 18717
institution records that disclosure to a mental health facility 18718
is in the best interest of the person identified. 18719

(4) Disclosure is of a record deposited with the Ohio 18720
historical society pursuant to division (C) of section 5123.31 18721
of the Revised Code and the disclosure is made to the closest 18722
living relative of the person identified, on the relative's 18723
request. 18724

(5) Disclosure is needed for the treatment of a person who 18725
is a resident or former resident of an institution for ~~the~~ 18726
mentally-retarded persons with intellectual disabilities or a 18727
person whose institutionalization has been sought under this 18728
chapter or is needed for the payment of services provided to the 18729
person. 18730

(C) The department of developmental disabilities shall 18731
adopt rules with respect to the systematic and periodic 18732
destruction of residents' records. 18733

(D) Upon the death of a resident or former resident of an 18734
institution for ~~the mentally-retarded~~ persons with intellectual 18735
disabilities or a person whose institutionalization was sought 18736

under this chapter, the managing officer of an institution shall 18737
provide access to the certificates, applications, records, and 18738
reports made for the purposes of this chapter to the resident's, 18739
former resident's, or person's guardian if the guardian makes a 18740
written request. If a deceased resident, former resident, or 18741
person whose institutionalization was sought under this chapter 18742
did not have a guardian at the time of death, the managing 18743
officer shall provide access to the certificates, applications, 18744
records, and reports made for purposes of this chapter to a 18745
member of the person's family, upon that family member's written 18746
request. 18747

(E) No person shall reveal the contents of a record of a 18748
resident except as authorized by this chapter. 18749

Sec. 5123.91. All persons who are not subject to any 18750
criminal provisions and who act reasonable and in good faith, 18751
either upon actual knowledge or upon information reasonably 18752
thought by them to be reliable, shall be free from any liability 18753
to a person institutionalized in institutions for ~~the mentally~~ 18754
retarded persons with intellectual disabilities or to any other 18755
person in their procedural or physical assistance administered 18756
in the course of the institutionalization or discharge of a 18757
person pursuant to the provisions of this chapter. 18758

Sec. 5123.92. If an affidavit alleging that a person ~~is~~ 18759
mentally retarded has an intellectual disability and is subject 18760
to institutionalization by court order is filed, according to 18761
the provisions of section 5123.71 of the Revised Code, in the 18762
probate division of a county within the institutional district 18763
but not in the county within which the institution is located, 18764
and if such person is detained in the institution, the probate 18765
division of the county in which the institution is located 18766

shall, upon the request of the probate division receiving the affidavit, hold a hearing and make a disposition of the person in accordance with the procedures prescribed by this chapter.

Sec. 5123.93. Minors with ~~mental retardation~~ an intellectual disability shall remain under the guardianship of their parents or of a guardian appointed pursuant to Chapter 2111. of the Revised Code, notwithstanding institutionalization pursuant to any section of this chapter, unless parental rights have been terminated pursuant to a court finding that the child is neglected, abused, or dependent pursuant to Chapter 2151. of the Revised Code. If a minor with ~~mental retardation~~ an intellectual disability has been found to be dependent, abused, or neglected, the public children services agency to whom permanent custody has been assigned pursuant to Chapter 2151. of the Revised Code shall have the same authority and responsibility it would have if the child were not ~~mentally retarded~~ a person with an intellectual disability and were not institutionalized. In no case shall the guardianship of a person with ~~mental retardation~~ an intellectual disability be assigned to the managing officer or any other employee of an institution in which the person is institutionalized, or be assigned, unless there is a relationship by blood or marriage or unless the service is a protective service as defined in section 5123.55 of the Revised Code, to a person or agency who provides services to the person with ~~mental retardation~~ an intellectual disability.

Sec. 5123.95. The probate judge, upon making an order institutionalizing a person under this chapter, shall forthwith transmit copies, under ~~his~~ the judge's official seal, of court papers in the case, including the certificate of the expert witnesses, and of ~~his~~ the judge's findings in the case to the managing officer of the institution for ~~the mentally retarded~~

persons with intellectual disabilities. 18798

If not otherwise furnished, the probate judge shall see 18799
that each person institutionalized under section 5123.76 of the 18800
Revised Code is properly attired for transportation and, in 18801
addition, the institution shall be furnished a complete change 18802
of clothing for such person, which shall be paid for on the 18803
certificate of the probate judge and the order of the county 18804
auditor from the county treasury. The clothing shall be new or 18805
as good as new. The managing officer of the institution need not 18806
receive the person without such clothing. 18807

Upon institutionalization, the managing officer of the 18808
institution to which the individual is admitted shall take 18809
possession of all money and other valuables that may be upon the 18810
person of the individual and shall, within ten days, file a list 18811
thereof with the probate judge of the county of which the 18812
individual is a resident. If the amount of money is fifty 18813
dollars or less it shall be retained and expended by the 18814
managing officer of the institution for the benefit of the 18815
individual. Unless a guardian of the estate of the individual 18816
has already been appointed, the probate judge may, upon ~~his~~ the 18817
judge's own motion and without notice, appoint a special 18818
guardian of the estate of the individual. Any special guardian, 18819
before being appointed, shall file a bond approved by the 18820
probate judge in the same amount as is required by section 18821
2109.04 of the Revised Code. A special guardian as provided for 18822
in this section, and while acting as such, shall be governed by 18823
all laws applicable to guardians of the estates of incompetents. 18824
The special guardian shall be allowed such compensation for ~~his~~ 18825
the special guardian's services as the court thinks reasonable, 18826
providing ~~he~~ the special guardian forthwith performs all the 18827
duties incumbent upon ~~him~~ the special guardian. 18828

Sec. 5123.96. Costs, fees, and expenses of all proceedings held under this chapter shall be paid as follows:	18829 18830
(A) To police and health officers, other than sheriffs or their deputies, the same fees allowed to constables, to be paid upon the approval of the probate judge;	18831 18832 18833
(B) To sheriffs or their deputies, the same fees allowed for similar services in the court of common pleas;	18834 18835
(C) To physicians or licensed clinical psychologists acting as expert witnesses and to other expert witnesses designated by the court, an amount determined by the court;	18836 18837 18838
(D) To witnesses in an administrative proceeding, the same fees and mileage as are provided to witnesses by section 119.094 of the Revised Code, and to witnesses in a judicial proceeding, the same fees and mileage as are provided to witnesses by section 2335.06 of the Revised Code, to be paid upon the approval of the probate judge;	18839 18840 18841 18842 18843 18844
(E) To a person, other than the sheriff or the sheriff's deputies, for taking a mentally retarded person <u>with an intellectual disability</u> to an institution or removing a mentally retarded person <u>with an intellectual disability</u> from an institution, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge;	18845 18846 18847 18848 18849 18850
(F) To assistants who convey mentally retarded persons <u>with intellectual disabilities</u> to institutions when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;	18851 18852 18853 18854 18855 18856 18857

(G) To an attorney appointed by the probate division for 18858
an indigent who allegedly is a ~~mentally retarded person~~ with an 18859
intellectual disability pursuant to any section of this chapter, 18860
the fees that are determined by the probate division. When those 18861
indigent persons are before the court, all filing and recording 18862
fees shall be waived. 18863

(H) To a referee who is appointed to conduct proceedings 18864
under this chapter that involve a respondent whose domicile is 18865
or, before the respondent's institutionalization, was not the 18866
county in which the proceedings are held, compensation as fixed 18867
by the probate division, but not more than the compensation paid 18868
for similar proceedings for respondents whose domicile is in the 18869
county in which the proceedings are held; 18870

(I) To a court reporter appointed to make a transcript of 18871
proceedings under this chapter, the compensation and fees 18872
allowed in other cases under section 2101.08 of the Revised 18873
Code. 18874

All costs, fees, and expenses described in this section, 18875
after payment by the county from appropriations pursuant to 18876
section 2101.11 of the Revised Code, shall be certified by the 18877
county auditor to the department of developmental disabilities 18878
within two months of the date the costs, fees, and expenses are 18879
incurred by the county. Payment shall be provided for by the 18880
director of budget and management upon presentation of properly 18881
verified vouchers. The director of developmental disabilities 18882
may adopt rules in accordance with Chapter 119. of the Revised 18883
Code to implement the payment of costs, fees, and expenses under 18884
this section. 18885

Sec. 5123.99. (A) Whoever violates section 5123.16 or 18886
5123.20 of the Revised Code is guilty of a misdemeanor of the 18887

first degree. 18888

(B) Whoever violates division (C), (E), or (G) (3) of 18889
section 5123.61 of the Revised Code is guilty of a misdemeanor 18890
of the fourth degree or, if the abuse or neglect constitutes a 18891
felony, a misdemeanor of the second degree. In addition to any 18892
other sanction or penalty authorized or required by law, if a 18893
person who is convicted of or pleads guilty to a violation of 18894
division (C), (E), or (G) (3) of section 5123.61 of the Revised 18895
Code is an ~~MR/DD~~-ID/DD employee, as defined in section 5123.50 18896
of the Revised Code, the offender shall be eligible to be 18897
included in the registry regarding misappropriation, abuse, 18898
neglect, or other specified misconduct by ~~MR/DD~~-ID/DD employees 18899
established under section 5123.52 of the Revised Code. 18900

Sec. 5126.01. As used in this chapter: 18901

(A) As used in this division, "adult" means an individual 18902
who is eighteen years of age or over and not enrolled in a 18903
program or service under Chapter 3323. of the Revised Code and 18904
an individual sixteen or seventeen years of age who is eligible 18905
for adult services under rules adopted by the director of 18906
developmental disabilities pursuant to Chapter 119. of the 18907
Revised Code. 18908

(1) "Adult services" means services provided to an adult 18909
outside the home, except when they are provided within the home 18910
according to an individual's assessed needs and identified in an 18911
individual service plan, that support learning and assistance in 18912
the area of self-care, sensory and motor development, 18913
socialization, daily living skills, communication, community 18914
living, social skills, or vocational skills. 18915

(2) "Adult services" includes all of the following: 18916

(a) Adult day habilitation services;	18917
(b) Employment services;	18918
(c) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation <u>intellectual</u> and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports.	18919 18920 18921 18922 18923 18924 18925
(B) (1) "Adult day habilitation services" means adult services that do the following:	18926 18927
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	18928 18929 18930 18931 18932 18933 18934 18935
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	18936 18937 18938 18939
(2) "Adult day habilitation services" includes all of the following:	18940 18941
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;	18942 18943 18944 18945

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Transportation necessary to access adult day habilitation services;

(f) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior

probate judge. 18974

(D) "Community employment," "competitive employment," and 18975
"integrated setting" have the same meanings as in section 18976
5123.022 of the Revised Code. 18977

(E) "Supported employment services" means vocational 18978
assessment, job training and coaching, job development and 18979
placement, worksite accessibility, and other services related to 18980
employment outside a sheltered workshop. "Supported employment 18981
services" includes both of the following: 18982

(1) Job training resulting in the attainment of community 18983
employment, supported work in a typical work environment, or 18984
self-employment; 18985

(2) Support for ongoing community employment, supported 18986
work at community-based sites, or self-employment. 18987

(F) As used in this division, "developmental delay" has 18988
the meaning established pursuant to section 5123.011 of the 18989
Revised Code. 18990

"Developmental disability" means a severe, chronic 18991
disability that is characterized by all of the following: 18992

(1) It is attributable to a mental or physical impairment 18993
or a combination of mental and physical impairments, other than 18994
a mental or physical impairment solely caused by mental illness 18995
as defined in division (A) of section 5122.01 of the Revised 18996
Code; 18997

(2) It is manifested before age twenty-two; 18998

(3) It is likely to continue indefinitely; 18999

(4) It results in one of the following: 19000

(a) In the case of a person under age three, at least one developmental delay or a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay; 19001
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(b) In the case of a person at least age three but under age six, at least two developmental delays; 19005
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(c) In the case of a person age six 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 age sixteen, capacity for economic self-sufficiency. 19007
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(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. 19014
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(G) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with ~~mental retardation~~ intellectual or other developmental disabilities who have not attained compulsory school age. 19019
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(H) "Employment services" means prevocational services or supported employment services. 19023
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(I) (1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, 19025
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and without which the individual would require 19030
institutionalization. 19031

(2) "Environmental modifications" includes such 19032
adaptations as installation of ramps and grab-bars, widening of 19033
doorways, modification of bathroom facilities, and installation 19034
of specialized electric and plumbing systems necessary to 19035
accommodate the individual's medical equipment and supplies. 19036

(3) "Environmental modifications" does not include 19037
physical adaptations or improvements to the home that are of 19038
general utility or not of direct medical or remedial benefit to 19039
the individual, including such adaptations or improvements as 19040
carpeting, roof repair, and central air conditioning. 19041

(J) "Family support services" means the services provided 19042
under a family support services program operated under section 19043
5126.11 of the Revised Code. 19044

(K) "Habilitation" means the process by which the staff of 19045
the facility or agency assists an individual with ~~mental-~~ 19046
~~retardation-an intellectual~~ or other developmental disability in 19047
acquiring and maintaining those life skills that enable the 19048
individual to cope more effectively with the demands of the 19049
individual's own person and environment, and in raising the 19050
level of the individual's personal, physical, mental, social, 19051
and vocational efficiency. Habilitation includes, but is not 19052
limited to, programs of formal, structured education and 19053
training. 19054

(L) "Home and community-based services" has the same 19055
meaning as in section 5123.01 of the Revised Code. 19056

(M) "ICF/IID" has the same meaning as in section 5124.01 19057
of the Revised Code. 19058

(N) "Immediate family" means parents, grandparents, 19059
brothers, sisters, spouses, sons, daughters, aunts, uncles, 19060
mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, 19061
sons-in-law, and daughters-in-law. 19062

(O) "Medicaid case management services" means case 19063
management services provided to an individual with ~~mental-~~ 19064
~~retardation~~an intellectual or other developmental disability 19065
that the state medicaid plan requires. 19066

(P) "~~Mental retardation~~Intellectual disability" means a 19067
mental impairment manifested during the developmental period 19068
characterized by significantly subaverage general intellectual 19069
functioning existing concurrently with deficiencies in the 19070
effectiveness or degree with which an individual meets the 19071
standards of personal independence and social responsibility 19072
expected of the individual's age and cultural group. 19073

(Q) "Prevocational services" means services that provide 19074
learning and work experiences, including volunteer work 19075
experiences, from which an individual can develop general 19076
strengths and skills that are not specific to a particular task 19077
or job but contribute to employability in community employment, 19078
supported work at community-based sites, or self-employment. 19079

(R) "Residential services" means services to individuals 19080
with ~~mental retardation~~intellectual or other developmental 19081
disabilities to provide housing, food, clothing, habilitation, 19082
staff support, and related support services necessary for the 19083
health, safety, and welfare of the individuals and the 19084
advancement of their quality of life. "Residential services" 19085
includes program management, as described in section 5126.14 of 19086
the Revised Code. 19087

(S) "Resources" means available capital and other assets, 19088
including moneys received from the federal, state, and local 19089
governments, private grants, and donations; appropriately 19090
qualified personnel; and appropriate capital facilities and 19091
equipment. 19092

(T) "Senior probate judge" means the current probate judge 19093
of a county who has served as probate judge of that county 19094
longer than any of the other current probate judges of that 19095
county. If a county has only one probate judge, "senior probate 19096
judge" means that probate judge. 19097

(U) "Service and support administration" means the duties 19098
performed by a service and support administrator pursuant to 19099
section 5126.15 of the Revised Code. 19100

(V) (1) "Specialized medical, adaptive, and assistive 19101
equipment, supplies, and supports" means equipment, supplies, 19102
and supports that enable an individual to increase the ability 19103
to perform activities of daily living or to perceive, control, 19104
or communicate within the environment. 19105

(2) "Specialized medical, adaptive, and assistive 19106
equipment, supplies, and supports" includes the following: 19107

(a) Eating utensils, adaptive feeding dishes, plate 19108
guards, mylatex straps, hand splints, reaches, feeder seats, 19109
adjustable pointer sticks, interpreter services, 19110
telecommunication devices for the deaf, computerized 19111
communications boards, other communication devices, support 19112
animals, veterinary care for support animals, adaptive beds, 19113
supine boards, prone boards, wedges, sand bags, sidelayers, 19114
bolsters, adaptive electrical switches, hand-held shower heads, 19115
air conditioners, humidifiers, emergency response systems, 19116

folding shopping carts, vehicle lifts, vehicle hand controls, 19117
other adaptations of vehicles for accessibility, and repair of 19118
the equipment received. 19119

(b) Nondisposable items not covered by medicaid that are 19120
intended to assist an individual in activities of daily living 19121
or instrumental activities of daily living. 19122

(W) "Supportive home services" means a range of services 19123
to families of individuals with ~~mental retardation~~ intellectual 19124
or other developmental disabilities to develop and maintain 19125
increased acceptance and understanding of such persons, 19126
increased ability of family members to teach the person, better 19127
coordination between school and home, skills in performing 19128
specific therapeutic and management techniques, and ability to 19129
cope with specific situations. 19130

(X) (1) "Supported living" means services provided for as 19131
long as twenty-four hours a day to an individual with ~~mental-~~ 19132
~~retardation~~ an intellectual or other developmental disability 19133
through any public or private resources, including moneys from 19134
the individual, that enhance the individual's reputation in 19135
community life and advance the individual's quality of life by 19136
doing the following: 19137

(a) Providing the support necessary to enable an 19138
individual to live in a residence of the individual's choice, 19139
with any number of individuals who are not disabled, or with not 19140
more than three individuals with ~~mental retardation~~ intellectual 19141
and developmental disabilities unless the individuals are 19142
related by blood or marriage; 19143

(b) Encouraging the individual's participation in the 19144
community; 19145

(c) Promoting the individual's rights and autonomy;	19146
(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.	19147 19148 19149
(2) "Supported living" includes the provision of all of the following:	19150 19151
(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;	19152 19153 19154 19155
(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;	19156 19157 19158 19159 19160
(c) Personal care services and homemaker services;	19161
(d) Household maintenance that does not include modifications to the physical structure of the residence;	19162 19163
(e) Respite care services;	19164
(f) Program management, as described in section 5126.14 of the Revised Code.	19165 19166
Sec. 5126.022. When making appointments to a county board of developmental disabilities, an appointing authority shall do all of the following:	19167 19168 19169
(A) Appoint only individuals who are residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of mental	19170 19171 19172

retardation <u>intellectual disabilities</u> and other allied fields;	19173
(B) If the appointing authority is a board of county commissioners, appoint at least two individuals who are eligible for services provided by the county board or are immediate family members of such individuals. The board of county commissioners shall, whenever possible, ensure that one of those two members is an individual eligible for adult services or an immediate family member of an individual eligible for adult services and the other is an immediate family member of an individual eligible for early intervention services or services for preschool or school-age children;	19174 19175 19176 19177 19178 19179 19180 19181 19182 19183
(C) If the appointing authority is a senior probate judge, appoint at least one individual who is an immediate family member of an individual eligible for residential services or supported living;	19184 19185 19186 19187
(D) Appoint, to the maximum extent possible, individuals who have professional training and experience in business management, finance, law, health care practice, personnel administration, or government service;	19188 19189 19190 19191
(E) Provide for the county board's membership to reflect, as nearly as possible, the composition of the county that the county board serves.	19192 19193 19194
Sec. 5126.023. None of the following individuals may serve as a member of a county board of developmental disabilities:	19195 19196
(A) An elected public official, except for a township trustee, township fiscal officer, or individual excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code;	19197 19198 19199 19200
(B) An immediate family member of a member of the same	19201

county board;	19202
(C) An employee of any county board;	19203
(D) An immediate family member of an employee of the same county board;	19204 19205
(E) A former employee of a county board whose employment ceased less than four calendar years before the former employee would begin to serve as a member of the same county board;	19206 19207 19208
(F) A former employee of a county board whose employment ceased less than two years before the former employee would begin to serve as a member of a different county board;	19209 19210 19211
(G) Unless there is no conflict of interest, an individual who or whose immediate family member is a board member of an agency licensed or certified by the department of developmental disabilities to provide services to individuals with mental- retardation-intellectual or developmental disabilities or an individual who or whose immediate family member is an employee of such an agency;	19212 19213 19214 19215 19216 19217 19218
(H) An individual with an immediate family member who serves as a county commissioner of a county served by the county board unless the individual was a member of the county board before October 31, 1980.	19219 19220 19221 19222
Sec. 5126.04. (A) Each county board of developmental disabilities shall plan and set priorities based on available resources for the provision of facilities, programs, and other services to meet the needs of county residents who are individuals with mental-retardation-intellectual and other developmental disabilities, former residents of the county residing in state institutions or, before the effective date of- this amendment <u>September 29, 2011</u> , placed under purchase of	19223 19224 19225 19226 19227 19228 19229 19230

service agreements under section 5123.18 of the Revised Code, 19231
and children subject to a determination made pursuant to section 19232
121.38 of the Revised Code. 19233

Each county board shall assess the facility and service 19234
needs of the individuals with ~~mental retardation~~ intellectual 19235
and other developmental disabilities who are residents of the 19236
county or former residents of the county residing in state 19237
institutions or, ~~before the effective date of this amendment~~ 19238
September 29, 2011, placed under purchase of service agreements 19239
under section 5123.18 of the Revised Code. 19240

Each county board shall require individual habilitation or 19241
service plans for individuals with ~~mental retardation~~ 19242
intellectual and other developmental disabilities who are being 19243
served or who have been determined eligible for services and are 19244
awaiting the provision of services. Each board shall ensure that 19245
methods of having their service needs evaluated are available. 19246

(B) (1) If a foster child is in need of assessment for 19247
eligible services or is receiving services from a county board 19248
of developmental disabilities and that child is placed in a 19249
different county, the agency that placed the child, immediately 19250
upon placement, shall inform the county board in the new county 19251
all of the following: 19252

(a) That a foster child has been placed in that county; 19253

(b) The name and other identifying information of the 19254
foster child; 19255

(c) The name of the foster child's previous county of 19256
residence; 19257

(d) That the foster child was in need of assessment for 19258
eligible services or was receiving services from the county 19259

board of developmental disabilities in the previous county. 19260

(2) Upon receiving the notice described in division (B) (1) 19261
of this section or otherwise learning that the child was in need 19262
of assessment for eligible services or was receiving services 19263
from a county board of developmental disabilities in the 19264
previous county, the county board in the new county shall 19265
communicate with the county board of the previous county to 19266
determine how services for the foster child shall be provided in 19267
accordance with each board's plan and priorities as described in 19268
division (A) of this section. 19269

If the two county boards are unable to reach an agreement 19270
within ten days of the child's placement, the county board in 19271
the new county shall send notice to the Ohio department of 19272
developmental disabilities of the failure to agree. The 19273
department shall decide how services shall be provided for the 19274
foster child within ten days of receiving notice that the county 19275
boards could not reach an agreement. The department may decide 19276
that one, or both, of the county boards shall provide services. 19277
The services shall be provided in accordance with the board's 19278
plan and priorities as described in division (A) of this 19279
section. 19280

(C) The department of developmental disabilities may adopt 19281
rules in accordance with Chapter 119. of the Revised Code as 19282
necessary to implement this section. To the extent that rules 19283
adopted under this section apply to the identification and 19284
placement of children with disabilities under Chapter 3323. of 19285
the Revised Code, the rules shall be consistent with the 19286
standards and procedures established under sections 3323.03 to 19287
3323.05 of the Revised Code. 19288

(D) The responsibility or authority of a county board to 19289

provide services under this chapter does not affect the 19290
responsibility of any other entity of state or local government 19291
to provide services to individuals with ~~mental retardation~~ 19292
intellectual and developmental disabilities. 19293

(E) On or before the first day of February prior to a 19294
school year, a county board of developmental disabilities may 19295
elect not to participate during that school year in the 19296
provision of or contracting for educational services for 19297
children ages six through twenty-one years of age, provided that 19298
on or before that date the board gives notice of this election 19299
to the superintendent of public instruction, each school 19300
district in the county, and the educational service center 19301
serving the county. If a board makes this election, it shall not 19302
have any responsibility for or authority to provide educational 19303
services that school year for children ages six through twenty- 19304
one years of age. If a board does not make an election for a 19305
school year in accordance with this division, the board shall be 19306
deemed to have elected to participate during that school year in 19307
the provision of or contracting for educational services for 19308
children ages six through twenty-one years of age. 19309

(F) If a county board of developmental disabilities elects 19310
to provide educational services during a school year to 19311
individuals six through twenty-one years of age who have 19312
multiple disabilities, the board may provide these services to 19313
individuals who are appropriately identified and determined 19314
eligible pursuant to Chapter 3323. of the Revised Code, and in 19315
accordance with applicable rules of the state board of 19316
education. The county board may also provide related services to 19317
individuals six through twenty-one years of age who have one or 19318
more disabling conditions, in accordance with section 3317.20 19319
and Chapter 3323. of the Revised Code and applicable rules of 19320

the state board of education. 19321

Sec. 5126.041. (A) As used in this section: 19322

(1) "Preschool child with a disability" has the same 19323
meaning as in section 3323.01 of the Revised Code. 19324

(2) "State institution" means all or part of an 19325
institution under the control of the department of developmental 19326
disabilities pursuant to section 5123.03 of the Revised Code and 19327
maintained for the care, treatment, and training of ~~the mentally-~~ 19328
retarded individuals with intellectual disabilities. 19329

(B) Except as provided in division (C) of this section, 19330
each county board of developmental disabilities shall make 19331
eligibility determinations in accordance with the definition of 19332
"developmental disability" in section 5126.01 of the Revised 19333
Code. Pursuant to rules adopted under section 5123.012 of the 19334
Revised Code, a county board may establish eligibility for 19335
programs and services for any preschool child with a disability 19336
eligible for services under section 3323.02 of the Revised Code 19337
whose disability is not attributable solely to mental illness as 19338
defined in section 5122.01 of the Revised Code. 19339

(C) (1) A county board shall make determinations of 19340
eligibility for service and support administration in accordance 19341
with rules adopted under section 5126.08 of the Revised Code. 19342

(2) All persons who were eligible for services and 19343
enrolled in programs offered by a county board of developmental 19344
disabilities pursuant to this chapter on July 1, 1991, shall 19345
continue to be eligible for those services and to be enrolled in 19346
those programs as long as they are in need of services. 19347

(3) A person who resided in a state institution on or 19348
before October 29, 1993, is eligible for programs and services 19349

offered by a county board of developmental disabilities, unless 19350
the person is determined by the county board not to be in need 19351
of those programs and services. 19352

(D) A county board shall refer a person who requests but 19353
is not eligible for programs and services offered by the board 19354
to other entities of state and local government or appropriate 19355
private entities that provide services. 19356

(E) Membership of a person on, or employment of a person 19357
by, a county board of developmental disabilities does not affect 19358
the eligibility of any member of that person's family for 19359
services provided by the board or by any entity under contract 19360
with the board. 19361

Sec. 5126.042. (A) As used in this section, "emergency 19362
status" means a status that an individual with ~~mental~~ 19363
~~retardation~~ an intellectual or developmental ~~disabilities~~ 19364
disability has when the individual is at risk of substantial 19365
self-harm or substantial harm to others if action is not taken 19366
within thirty days. An "emergency status" may include a status 19367
resulting from one or more of the following situations: 19368

(1) Loss of present residence for any reason, including 19369
legal action; 19370

(2) Loss of present caretaker for any reason, including 19371
serious illness of the caretaker, change in the caretaker's 19372
status, or inability of the caretaker to perform effectively for 19373
the individual; 19374

(3) Abuse, neglect, or exploitation of the individual; 19375

(4) Health and safety conditions that pose a serious risk 19376
to the individual or others of immediate harm or death; 19377

(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs or services, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists established under this division. Any such priorities shall be consistent with the board's plan and applicable law.

(C) If a county board~~r~~ determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance with rules adopted under division (E) of this section:

(1) The individual is receiving supported living, family support services, or adult services for which no federal financial participation is received under the medicaid program;

(2) The individual's primary caregiver is at least sixty

years of age; 19408

(3) The individual has intensive needs as determined in 19409
accordance with rules adopted under division (E) of this 19410
section. 19411

(D) If two or more individuals on a waiting list 19412
established under division (C) of this section for home and 19413
community-based services have priority for the services pursuant 19414
to division (C) (1), (2), or (3) of this section, a county board 19415
shall use criteria specified in rules adopted under division (E) 19416
of this section in determining the order in which the 19417
individuals with priority will be offered the services. An 19418
individual who has priority for home and community-based 19419
services because the individual has an emergency status has 19420
priority for the services over all other individuals on the 19421
waiting list who do not have emergency status. 19422

(E) The department of developmental disabilities shall 19423
adopt rules in accordance with Chapter 119. of the Revised Code 19424
governing waiting lists established under division (C) of this 19425
section. The rules shall include procedures to be followed to 19426
ensure that the due process rights of individuals placed on 19427
waiting lists are not violated. As part of the rules adopted 19428
under this division, the department shall adopt rules 19429
establishing criteria a county board shall use under division 19430
(D) of this section in determining the order in which 19431
individuals with priority for home and community-based services 19432
pursuant to division (C) (1), (2), or (3) of this section will be 19433
offered the services. 19434

(F) The following shall take precedence over the 19435
applicable provisions of this section: 19436

(1) Medicaid rules and regulations;	19437
(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.	19438 19439 19440 19441
Sec. 5126.043. (A) Unless a guardian has been appointed for the individual, when a decision regarding receipt of a service or participation in a program provided for or funded under this chapter or Chapter 5123. or 5124. of the Revised Code by an individual with mental retardation <u>an intellectual</u> or other developmental disability must be made, the individual shall be permitted to make the decision. The individual may obtain support and guidance from an adult family member or other person, but doing so does not affect the right of the individual to make the decision.	19442 19443 19444 19445 19446 19447 19448 19449 19450 19451
(B) An individual with mental retardation <u>an intellectual</u> or other developmental disability may authorize an adult to make a decision described in division (A) of this section on the individual's behalf, as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.	19452 19453 19454 19455 19456 19457
(C) If a guardian has been appointed for an individual with mental retardation <u>an intellectual</u> or other developmental disability, the guardian shall make any decision described in division (A) of this section on behalf of the individual. This section does not require appointment of a guardian.	19458 19459 19460 19461 19462
(D) Individuals with mental retardation <u>intellectual</u> and other developmental disabilities, including those who have been adjudicated incompetent pursuant to Chapter 2111. of the Revised	19463 19464 19465

Code, have the right to participate in decisions that affect 19466
their lives and to have their needs, desires, and preferences 19467
considered. An adult or guardian who makes a decision pursuant 19468
to division (B) or (C) of this section shall make a decision 19469
that is in the best interests of the individual on whose behalf 19470
the decision is made and that is consistent with the needs, 19471
desires, and preferences of that individual. 19472

Sec. 5126.046. (A) Except as otherwise provided by 42 19473
C.F.R. 431.51, an individual with ~~mental retardation~~ an 19474
intellectual or other developmental disability who is eligible 19475
for home and community-based services has the right to obtain 19476
the services from any provider of the services that is qualified 19477
to furnish the services and is willing to furnish the services 19478
to the individual. A county board of developmental disabilities 19479
that has medicaid local administrative authority under division 19480
(A) of section 5126.055 of the Revised Code for home and 19481
community-based services and refuses to permit an individual to 19482
obtain home and community-based services from a qualified and 19483
willing provider shall provide the individual timely notice that 19484
the individual may appeal under section 5160.31 of the Revised 19485
Code. 19486

(B) An individual with ~~mental retardation~~ an intellectual 19487
or other developmental disability who is eligible for 19488
nonmedicaid residential services or nonmedicaid supported living 19489
has the right to obtain the services from any provider of the 19490
residential services or supported living that is qualified to 19491
furnish the residential services or supported living and is 19492
willing to furnish the residential services or supported living 19493
to the individual. 19494

(C) The department of developmental disabilities shall 19495

make available to the public on its internet web site an up-to- 19496
date list of all providers of home and community-based services, 19497
nonmedicaid residential services, and nonmedicaid supported 19498
living. County boards shall assist individuals with ~~mental-~~ 19499
~~retardation-~~intellectual or other developmental disabilities and 19500
the families of such individuals access the list on the 19501
department's internet web site. 19502

(D) The director of developmental disabilities shall adopt 19503
rules in accordance with Chapter 119. of the Revised Code 19504
governing the implementation of this section. The rules shall 19505
include procedures for individuals to choose their providers. 19506

Sec. 5126.05. (A) Subject to the rules established by the 19507
director of developmental disabilities pursuant to Chapter 119. 19508
of the Revised Code for programs and services offered pursuant 19509
to this chapter, and subject to the rules established by the 19510
state board of education pursuant to Chapter 119. of the Revised 19511
Code for programs and services offered pursuant to Chapter 3323. 19512
of the Revised Code, the county board of developmental 19513
disabilities shall: 19514

(1) Administer and operate facilities, programs, and 19515
services as provided by this chapter and Chapter 3323. of the 19516
Revised Code and establish policies for their administration and 19517
operation; 19518

(2) Coordinate, monitor, and evaluate existing services 19519
and facilities available to individuals with ~~mental-retardation-~~ 19520
intellectual and developmental disabilities; 19521

(3) Provide early childhood services, supportive home 19522
services, and adult services, according to the plan and 19523
priorities developed under section 5126.04 of the Revised Code; 19524

- (4) Provide or contract for special education services 19525
pursuant to Chapters 3317. and 3323. of the Revised Code and 19526
ensure that related services, as defined in section 3323.01 of 19527
the Revised Code, are available according to the plan and 19528
priorities developed under section 5126.04 of the Revised Code; 19529
- (5) Adopt a budget, authorize expenditures for the 19530
purposes specified in this chapter and do so in accordance with 19531
section 319.16 of the Revised Code, approve attendance of board 19532
members and employees at professional meetings and approve 19533
expenditures for attendance, and exercise such powers and duties 19534
as are prescribed by the director; 19535
- (6) Submit annual reports of its work and expenditures, 19536
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 19537
the director, the superintendent of public instruction, and the 19538
board of county commissioners at the close of the fiscal year 19539
and at such other times as may reasonably be requested; 19540
- (7) Authorize all positions of employment, establish 19541
compensation, including but not limited to salary schedules and 19542
fringe benefits for all board employees, approve contracts of 19543
employment for management employees that are for a term of more 19544
than one year, employ legal counsel under section 309.10 of the 19545
Revised Code, and contract for employee benefits; 19546
- (8) Provide service and support administration in 19547
accordance with section 5126.15 of the Revised Code; 19548
- (9) Certify respite care homes pursuant to rules adopted 19549
under section 5123.171 of the Revised Code by the director of 19550
developmental disabilities; 19551
- (10) Implement an employment first policy that clearly 19552
identifies community employment as the desired outcome for every 19553

individual of working age who receives services from the board; 19554

(11) Set benchmarks for improving community employment 19555
outcomes. 19556

(B) To the extent that rules adopted under this section 19557
apply to the identification and placement of children with 19558
disabilities under Chapter 3323. of the Revised Code, they shall 19559
be consistent with the standards and procedures established 19560
under sections 3323.03 to 3323.05 of the Revised Code. 19561

(C) Any county board may enter into contracts with other 19562
such boards and with public or private, nonprofit, or profit- 19563
making agencies or organizations of the same or another county, 19564
to provide the facilities, programs, and services authorized or 19565
required, upon such terms as may be agreeable, and in accordance 19566
with this chapter and Chapter 3323. of the Revised Code and 19567
rules adopted thereunder and in accordance with sections 307.86 19568
and 5126.071 of the Revised Code. 19569

(D) A county board may combine transportation for children 19570
and adults enrolled in programs and services offered under 19571
Chapter 5126. of the Revised Code with transportation for 19572
children enrolled in classes funded under sections 3317.0213 and 19573
3317.20 of the Revised Code. 19574

(E) A county board may purchase all necessary insurance 19575
policies, may purchase equipment and supplies through the 19576
department of administrative services or from other sources, and 19577
may enter into agreements with public agencies or nonprofit 19578
organizations for cooperative purchasing arrangements. 19579

(F) A county board may receive by gift, grant, devise, or 19580
bequest any moneys, lands, or property for the benefit of the 19581
purposes for which the board is established and hold, apply, and 19582

dispose of the moneys, lands, and property according to the 19583
terms of the gift, grant, devise, or bequest. All money received 19584
by gift, grant, bequest, or disposition of lands or property 19585
received by gift, grant, devise, or bequest shall be deposited 19586
in the county treasury to the credit of such board and shall be 19587
available for use by the board for purposes determined or stated 19588
by the donor or grantor, but may not be used for personal 19589
expenses of the board members. Any interest or earnings accruing 19590
from such gift, grant, devise, or bequest shall be treated in 19591
the same manner and subject to the same provisions as such gift, 19592
grant, devise, or bequest. 19593

(G) The board of county commissioners shall levy taxes and 19594
make appropriations sufficient to enable the county board of 19595
developmental disabilities to perform its functions and duties, 19596
and may utilize any available local, state, and federal funds 19597
for such purpose. 19598

Sec. 5126.051. (A) To the extent that resources are 19599
available, a county board of developmental disabilities shall 19600
provide for or arrange residential services and supported living 19601
for individuals with ~~mental retardation~~ intellectual and 19602
developmental disabilities. 19603

A county board may acquire, convey, lease, or sell 19604
property for residential services and supported living and enter 19605
into loan agreements, including mortgages, for the acquisition 19606
of such property. A county board is not required to comply with 19607
provisions of Chapter 307. of the Revised Code providing for 19608
competitive bidding or sheriff sales in the acquisition, lease, 19609
conveyance, or sale of property under this division, but the 19610
acquisition, lease, conveyance, or sale must be at fair market 19611
value determined by appraisal of one or more disinterested 19612

persons appointed by the board. 19613

Any action taken by a county board under this division 19614
that will incur debt on the part of the county shall be taken in 19615
accordance with Chapter 133. of the Revised Code. A county board 19616
shall not incur any debt on the part of the county without the 19617
prior approval of the board of county commissioners. 19618

(B) (1) To the extent that resources are available, a 19619
county board shall provide or arrange for the provision of adult 19620
services to individuals who are age eighteen and older and not 19621
enrolled in a program or service under Chapter 3323. of the 19622
Revised Code or age sixteen or seventeen and eligible for adult 19623
services under rules adopted by the director of developmental 19624
disabilities under Chapter 119. of the Revised Code. These 19625
services shall be provided in accordance with the individual's 19626
individual service plan and shall include support services 19627
specified in the plan. 19628

(2) Any prevocational services shall be provided in 19629
accordance with the individual's individual service plan and 19630
occur over a specified period of time with specific outcomes 19631
sought to be achieved. 19632

(3) A county board may, in cooperation with the 19633
opportunities for Ohioans with disabilities agency, seek federal 19634
funds for job training or other services directed at helping 19635
individuals obtain community employment. 19636

(4) A county board may contract with any agency, board, or 19637
other entity that is accredited by the commission on 19638
accreditation of rehabilitation facilities to provide services. 19639
A county board that is accredited by the commission on 19640
accreditation of rehabilitation facilities may provide services 19641

for which it is certified by the commission. 19642

(C) To the extent that resources are available, a county 19643
board may provide services to an individual with ~~mental~~ 19644
~~retardation~~an intellectual or other developmental disability in 19645
addition to those provided pursuant to this section, section 19646
5126.05 of the Revised Code, or any other section of this 19647
chapter. The services shall be provided in accordance with the 19648
individual's individual service plan and may be provided in 19649
collaboration with other entities of state or local government. 19650

Sec. 5126.054. (A) Each county board of developmental 19651
disabilities shall, by resolution, develop a three-calendar year 19652
plan that includes the following three components: 19653

(1) An assessment component that includes all of the 19654
following: 19655

(a) The number of individuals with ~~mental retardation~~ 19656
intellectual or other developmental ~~disability~~ disabilities 19657
residing in the county who need the level of care provided by an 19658
ICF/IID, may seek home and community-based services, and are 19659
given priority on a waiting list established for the services 19660
pursuant to section 5126.042 of the Revised Code; the service 19661
needs of those individuals; and the projected annualized cost 19662
for services; 19663

(b) The source of funds available to the county board to 19664
pay the nonfederal share of medicaid expenditures that the 19665
county board is required by sections 5126.059 and 5126.0510 of 19666
the Revised Code to pay; 19667

(c) Any other applicable information or conditions that 19668
the department of developmental disabilities requires as a 19669
condition of approving the component under section 5123.046 of 19670

the Revised Code. 19671

(2) A preliminary implementation component that specifies 19672
the number of individuals to be provided, during the first year 19673
that the plan is in effect, home and community-based services 19674
pursuant to the waiting list priority given to them under 19675
section 5126.042 of the Revised Code and the types of home and 19676
community-based services the individuals are to receive; 19677

(3) A component that provides for the implementation of 19678
medicaid case management services and home and community-based 19679
services for individuals who begin to receive the services on or 19680
after the date the plan is approved under section 5123.046 of 19681
the Revised Code. A county board shall include all of the 19682
following in the component: 19683

(a) If the department of developmental disabilities or 19684
department of medicaid requires, an agreement to pay the 19685
nonfederal share of medicaid expenditures that the county board 19686
is required by sections 5126.059 and 5126.0510 of the Revised 19687
Code to pay; 19688

(b) How the services are to be phased in over the period 19689
the plan covers, including how the county board will serve 19690
individuals who have priority on a waiting list established 19691
under section 5126.042 of the Revised Code; 19692

(c) Any agreement or commitment regarding the county 19693
board's funding of home and community-based services that the 19694
county board has with the department at the time the county 19695
board develops the component; 19696

(d) Assurances adequate to the department that the county 19697
board will comply with all of the following requirements: 19698

(i) To provide the types of home and community-based 19699

services specified in the preliminary implementation component 19700
required by division (A) (2) of this section to at least the 19701
number of individuals specified in that component; 19702

(ii) To use any additional funds the county board receives 19703
for the services to improve the county board's resource 19704
capabilities for supporting such services available in the 19705
county at the time the component is developed and to expand the 19706
services to accommodate the unmet need for those services in the 19707
county; 19708

(iii) To employ or contract with a business manager or 19709
enter into an agreement with another county board of 19710
developmental disabilities that employs or contracts with a 19711
business manager to have the business manager serve both county 19712
boards. No superintendent of a county board may serve as the 19713
county board's business manager. 19714

(iv) To employ or contract with a medicaid services 19715
manager or enter into an agreement with another county board of 19716
developmental disabilities that employs or contracts with a 19717
medicaid services manager to have the medicaid services manager 19718
serve both county boards. No superintendent of a county board 19719
may serve as the county board's medicaid services manager. 19720

(e) Programmatic and financial accountability measures and 19721
projected outcomes expected from the implementation of the plan; 19722

(f) Any other applicable information or conditions that 19723
the department requires as a condition of approving the 19724
component under section 5123.046 of the Revised Code. 19725

(B) A county board whose plan developed under division (A) 19726
of this section is approved by the department under section 19727
5123.046 of the Revised Code shall update and renew the plan in 19728

accordance with a schedule the department shall develop. 19729

Sec. 5126.055. (A) Except as provided in section 5126.056 19730
of the Revised Code, a county board of developmental 19731
disabilities has medicaid local administrative authority to, and 19732
shall, do all of the following for an individual with ~~mental-~~ 19733
~~retardation-an intellectual~~ or other developmental disability 19734
who resides in the county that the county board serves and seeks 19735
or receives home and community-based services: 19736

(1) Perform assessments and evaluations of the individual. 19737
As part of the assessment and evaluation process, the county 19738
board shall do all of the following: 19739

(a) Make a recommendation to the department of 19740
developmental disabilities on whether the department should 19741
approve or deny the individual's application for the services, 19742
including on the basis of whether the individual needs the level 19743
of care an ICF/IID provides; 19744

(b) If the individual's application is denied because of 19745
the county board's recommendation and the individual appeals 19746
pursuant to section 5160.31 of the Revised Code, present, with 19747
the department of developmental disabilities or department of 19748
medicaid, whichever denies the application, the reasons for the 19749
recommendation and denial at the hearing; 19750

(c) If the individual's application is approved, recommend 19751
to the departments of developmental disabilities and medicaid 19752
the services that should be included in the individual's 19753
individualized service plan and, if either department approves, 19754
reduces, denies, or terminates a service included in the 19755
individual's individualized service plan under section 5166.20 19756
of the Revised Code because of the county board's 19757

recommendation, present, with the department that made the 19758
approval, reduction, denial, or termination, the reasons for the 19759
recommendation and approval, reduction, denial, or termination 19760
at a hearing held pursuant to an appeal made under section 19761
5160.31 of the Revised Code. 19762

(2) Perform any duties assigned to the county board in 19763
rules adopted under section 5126.046 of the Revised Code 19764
regarding the individual's right to choose a qualified and 19765
willing provider of the services and, at a hearing held pursuant 19766
to an appeal made under section 5160.31 of the Revised Code, 19767
present evidence of the process for appropriate assistance in 19768
choosing providers; 19769

(3) If the county board is certified under section 19770
5123.161 of the Revised Code to provide the services and agrees 19771
to provide the services to the individual and the individual 19772
chooses the county board to provide the services, furnish, in 19773
accordance with the county board's medicaid provider agreement 19774
and for the authorized reimbursement rate, the services the 19775
individual requires; 19776

(4) Monitor the services provided to the individual and 19777
ensure the individual's health, safety, and welfare. The 19778
monitoring shall include quality assurance activities. If the 19779
county board provides the services, the department of 19780
developmental disabilities shall also monitor the services. 19781

(5) Develop, with the individual and the provider of the 19782
individual's services, an effective individualized service plan 19783
that includes coordination of services, recommend that the 19784
departments of developmental disabilities and medicaid approve 19785
the plan, and implement the plan unless either department 19786
disapproves it. The individualized service plan shall include a 19787

summary page, agreed to by the county board, provider, and 19788
individual receiving services, that clearly outlines the amount, 19789
duration, and scope of services to be provided under the plan. 19790

(6) Have an investigative agent conduct investigations 19791
under section 5126.313 of the Revised Code that concern the 19792
individual; 19793

(7) Have a service and support administrator perform the 19794
duties under division (B) (9) of section 5126.15 of the Revised 19795
Code that concern the individual. 19796

(B) A county board shall perform its medicaid local 19797
administrative authority under this section in accordance with 19798
all of the following: 19799

(1) The county board's plan that the department of 19800
developmental disabilities approves under section 5123.046 of 19801
the Revised Code; 19802

(2) All applicable federal and state laws; 19803

(3) All applicable policies of the departments of 19804
developmental disabilities and medicaid and the United States 19805
department of health and human services; 19806

(4) The department of medicaid's supervision under its 19807
authority as the single state medicaid agency; 19808

(5) The department of developmental disabilities' 19809
oversight. 19810

(C) The departments of developmental disabilities and 19811
medicaid shall communicate with and provide training to county 19812
boards regarding medicaid local administrative authority granted 19813
by this section. The communication and training shall include 19814
issues regarding audit protocols and other standards established 19815

by the United States department of health and human services 19816
that the departments determine appropriate for communication and 19817
training. County boards shall participate in the training. The 19818
departments shall assess the county board's compliance against 19819
uniform standards that the departments shall establish. 19820

(D) A county board may not delegate its medicaid local 19821
administrative authority granted under this section but may 19822
contract with a person or government entity, including a council 19823
of governments, for assistance with its medicaid local 19824
administrative authority. A county board that enters into such a 19825
contract shall notify the director of developmental 19826
disabilities. The notice shall include the tasks and 19827
responsibilities that the contract gives to the person or 19828
government entity. The person or government entity shall comply 19829
in full with all requirements to which the county board is 19830
subject regarding the person or government entity's tasks and 19831
responsibilities under the contract. The county board remains 19832
ultimately responsible for the tasks and responsibilities. 19833

(E) A county board that has medicaid local administrative 19834
authority under this section shall, through the departments of 19835
developmental disabilities and medicaid, reply to, and cooperate 19836
in arranging compliance with, a program or fiscal audit or 19837
program violation exception that a state or federal audit or 19838
review discovers. The department of medicaid shall timely notify 19839
the department of developmental disabilities and the county 19840
board of any adverse findings. After receiving the notice, the 19841
county board, in conjunction with the department of 19842
developmental disabilities, shall cooperate fully with the 19843
department of medicaid and timely prepare and send to the 19844
department a written plan of correction or response to the 19845
adverse findings. The county board is liable for any adverse 19846

findings that result from an action it takes or fails to take in 19847
its implementation of medicaid local administrative authority. 19848

(F) If the department of developmental disabilities or 19849
department of medicaid determines that a county board's 19850
implementation of its medicaid local administrative authority 19851
under this section is deficient, the department that makes the 19852
determination shall require that county board do the following: 19853

(1) If the deficiency affects the health, safety, or 19854
welfare of an individual with ~~mental retardation~~ an intellectual 19855
or other developmental disability, correct the deficiency within 19856
twenty-four hours; 19857

(2) If the deficiency does not affect the health, safety, 19858
or welfare of an individual with ~~mental retardation~~ an 19859
intellectual or other developmental disability, receive 19860
technical assistance from the department or submit a plan of 19861
correction to the department that is acceptable to the 19862
department within sixty days and correct the deficiency within 19863
the time required by the plan of correction. 19864

Sec. 5126.058. (A) Each county board of developmental 19865
disabilities shall prepare a memorandum of understanding that is 19866
developed by all of the following and that is signed by the 19867
persons identified in divisions (A) (2) to (7) of this section: 19868

(1) The senior probate judge of the county or the senior 19869
probate judge's representative; 19870

(2) The county peace officer; 19871

(3) All chief municipal peace officers within the county; 19872

(4) Other law enforcement officers handling abuse, 19873
neglect, and exploitation of ~~mentally retarded and~~ 19874

~~developmentally disabled persons~~ with intellectual and 19875
developmental disabilities in the county; 19876

(5) The prosecuting attorney of the county; 19877

(6) The public children services agency; 19878

(7) The coroner of the county. 19879

(B) A memorandum of understanding shall set forth the 19880
normal operating procedure to be employed by all concerned 19881
officials in the execution of their respective responsibilities 19882
under this section and sections 313.12, 2151.421, 2903.16, 19883
5126.31, and 5126.33 of the Revised Code and shall have as its 19884
primary goal the elimination of all unnecessary interviews of 19885
persons who are the subject of reports made pursuant to this 19886
section. A failure to follow the procedure set forth in the 19887
memorandum by the concerned officials is not grounds for, and 19888
shall not result in, the dismissal of any charge or complaint 19889
arising from any reported case of abuse, neglect, or 19890
exploitation or the suppression of any evidence obtained as a 19891
result of any reported abuse, neglect, or exploitation and does 19892
not give any rights or grounds for appeal or post-conviction 19893
relief to any person. 19894

(C) A memorandum of understanding shall include, but is 19895
not limited to, all of the following: 19896

(1) The roles and responsibilities for handling emergency 19897
and nonemergency cases of abuse, neglect, or exploitation; 19898

(2) The roles and responsibilities for handling and 19899
coordinating investigations of reported cases of abuse, neglect, 19900
or exploitation and methods to be used in interviewing the 19901
person who is the subject of the report and who allegedly was 19902
abused, neglected, or exploited; 19903

(3) The roles and responsibilities for addressing the categories of persons who may interview the person who is the subject of the report and who allegedly was abused, neglected, or exploited;

(4) The roles and responsibilities for providing victim services to ~~mentally retarded and developmentally disabled~~ persons with intellectual and developmental disabilities pursuant to Chapter 2930. of the Revised Code;

(5) The roles and responsibilities for the filing of criminal charges against persons alleged to have abused, neglected, or exploited ~~mentally retarded or developmentally disabled persons~~ with intellectual or developmental disabilities.

(D) A memorandum of understanding may be signed by victim advocates, municipal court judges, municipal prosecutors, and any other person whose participation furthers the goals of a memorandum of understanding, as set forth in this section.

Sec. 5126.059. A county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for medicaid case management services the county board provides to an individual with ~~mental retardation~~ an intellectual or other developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services.

Sec. 5126.0510. (A) Except as otherwise provided in an agreement entered into under section 5123.048 of the Revised Code and subject to divisions (B), (C), and (D) of this section, a county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for the following home

and community-based services provided to an individual with 19933
~~mental retardation~~ an intellectual or other developmental 19934
disability who the county board determines under section 19935
5126.041 of the Revised Code is eligible for county board 19936
services: 19937

(1) Home and community-based services provided by the 19938
county board to such an individual; 19939

(2) Home and community-based services provided by a 19940
provider other than the county board to such an individual who 19941
is enrolled as of June 30, 2007, in the medicaid waiver 19942
component under which the services are provided; 19943

(3) Home and community-based services provided by a 19944
provider other than the county board to such an individual who, 19945
pursuant to a request the county board makes, enrolls in the 19946
medicaid waiver component under which the services are provided 19947
after June 30, 2007; 19948

(4) Home and community-based services provided by a 19949
provider other than the county board to such an individual for 19950
whom there is in effect an agreement entered into under division 19951
(E) of this section between the county board and director of 19952
developmental disabilities. 19953

(B) In the case of medicaid expenditures for home and 19954
community-based services for which division (A) (2) of this 19955
section requires a county board to pay the nonfederal share, the 19956
following shall apply to such services provided during fiscal 19957
year 2008 under the individual options medicaid waiver 19958
component: 19959

(1) The county board shall pay no less than the total 19960
amount the county board paid as the nonfederal share for home 19961

and community-based services provided in fiscal year 2007 under 19962
the individual options medicaid waiver component; 19963

(2) The county board shall pay no more than the sum of the 19964
following: 19965

(a) The total amount the county board paid as the 19966
nonfederal share for home and community-based services provided 19967
in fiscal year 2007 under the individual options medicaid waiver 19968
component; 19969

(b) An amount equal to one per cent of the total amount 19970
the department of developmental disabilities and county board 19971
paid as the nonfederal share for home and community-based 19972
services provided in fiscal year 2007 under the individual 19973
options medicaid waiver component to individuals the county 19974
board determined under section 5126.041 of the Revised Code are 19975
eligible for county board services. 19976

(C) A county board is not required to pay the nonfederal 19977
share of home and community-based services provided after June 19978
30, 2008, that the county board is otherwise required by 19979
division (A) (2) of this section to pay if the department of 19980
developmental disabilities fails to comply with division (A) of 19981
section 5123.0416 of the Revised Code. 19982

(D) A county board is not required to pay the nonfederal 19983
share of home and community-based services that the county board 19984
is otherwise required by division (A) (3) of this section to pay 19985
if both of the following apply: 19986

(1) The services are provided to an individual who enrolls 19987
in the medicaid waiver component under which the services are 19988
provided as the result of an order issued following a state 19989
hearing, administrative appeal, or appeal to a court of common 19990

pleas made under section 5101.35 of the Revised Code; 19991

(2) There are more individuals who are eligible for 19992
services from the county board enrolled in home and community- 19993
based services than is required by section 5126.0512 of the 19994
Revised Code. 19995

(E) A county board may enter into an agreement with the 19996
director of developmental disabilities under which the county 19997
board agrees to pay the nonfederal share of medicaid 19998
expenditures for one or more home and community-based services 19999
that the county board is not otherwise required by division (A) 20000
(1), (2), or (3) of this section to pay and that are provided to 20001
an individual the county board determines under section 5126.041 20002
of the Revised Code is eligible for county board services. The 20003
agreement shall specify which home and community-based services 20004
the agreement covers. The county board shall pay the nonfederal 20005
share of medicaid expenditures for the home and community-based 20006
services that the agreement covers as long as the agreement is 20007
in effect. 20008

Sec. 5126.08. (A) The director of developmental 20009
disabilities shall adopt rules in accordance with Chapter 119. 20010
of the Revised Code for all programs and services offered by a 20011
county board of developmental disabilities. Such rules shall 20012
include, but are not limited to, the following: 20013

(1) Determination of what constitutes a program or 20014
service; 20015

(2) Standards to be followed by a board in administering, 20016
providing, arranging, or operating programs and services; 20017

(3) Standards for determining the nature and degree of 20018
~~mental retardation~~ an individual's intellectual disability, 20019

including mild- mental-retardation <u>intellectual disability</u> , or <u>an</u>	20020
<u>individual's</u> developmental disability;	20021
(4) Standards and procedures for making eligibility	20022
determinations for the programs and services;	20023
(5) Procedures for obtaining consent for the arrangement	20024
of services under section 5126.31 of the Revised Code and for	20025
obtaining signatures on individual service plans under that	20026
section;	20027
(6) Specification of the service and support	20028
administration to be provided by a county board and standards	20029
for resolving grievances in connection with service and support	20030
administration.	20031
(B) The director shall be the final authority in	20032
determining the nature and degree of mental-retardation <u>an</u>	20033
<u>individual's intellectual</u> or developmental disability.	20034
Sec. 5126.082. (A) In addition to the rules adopted under	20035
division (A) (2) of section 5126.08 of the Revised Code	20036
establishing standards to be followed by county boards of	20037
developmental disabilities in administering, providing,	20038
arranging, and operating programs and services and in addition	20039
to the board accreditation system established under section	20040
5126.081 of the Revised Code, the director of developmental	20041
disabilities shall adopt rules in accordance with Chapter 119.	20042
of the Revised Code establishing standards for promoting and	20043
advancing the quality of life of individuals with mental-	20044
retardation <u>intellectual</u> and developmental disabilities	20045
receiving any of the following:	20046
(1) Early childhood services pursuant to section 5126.05	20047
of the Revised Code for children under age three;	20048

- (2) Adult services pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code for individuals age sixteen or older; 20049
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- (3) Family support services pursuant to section 5126.11 of the Revised Code. 20052
20053
- (B) The rules adopted under this section shall specify the actions county boards of developmental disabilities and the agencies with which they contract should take to do the following: 20054
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- (1) Offer individuals with ~~mental retardation~~ intellectual and developmental disabilities, and their families when appropriate, choices in programs and services that are centered on the needs and desires of those individuals; 20058
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- (2) Maintain infants with their families whenever possible by collaborating with other agencies that provide services to infants and their families and taking other appropriate actions; 20062
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- (3) Provide families that have children with ~~mental retardation~~ intellectual and developmental disabilities under age eighteen residing in their homes the resources necessary to allow the children to remain in their homes; 20065
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- (4) Create and implement community employment services based on the needs and desires of adults with ~~mental retardation~~ intellectual and developmental disabilities; 20069
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- (5) Create, in collaboration with other agencies, transportation systems that provide safe and accessible transportation within the county to individuals with disabilities; 20072
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- (6) Provide services that allow individuals with 20076

disabilities to be integrated into the community by engaging in 20077
educational, vocational, and recreational activities with 20078
individuals who do not have disabilities; 20079

(7) Provide age-appropriate retirement services for 20080
individuals age sixty-five and older with ~~mental retardation~~ 20081
intellectual and developmental disabilities; 20082

(8) Establish residential services and supported living 20083
for individuals with ~~mental retardation~~ intellectual and 20084
developmental disabilities in accordance with their needs. 20085

(C) To assist in funding programs and services that meet 20086
the standards established under this section, each county board 20087
of developmental disabilities shall make a good faith effort to 20088
acquire available federal funds, including reimbursements under 20089
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 20090
U.S.C.A. 1396, as amended. 20091

(D) Each county board of developmental disabilities shall 20092
work toward full compliance with the standards established under 20093
this section, based on its available resources. Funds received 20094
under this chapter shall be used to comply with the standards. 20095
Annually, each board shall conduct a self audit to evaluate the 20096
board's progress in complying fully with the standards. 20097

(E) The department shall complete a program quality review 20098
of each county board of developmental disabilities to determine 20099
the extent to which the board has complied with the standards. 20100
The review shall be conducted in conjunction with the 20101
comprehensive accreditation review of the board that is 20102
conducted under section 5126.081 of the Revised Code. 20103

Notwithstanding any provision of this chapter or Chapter 20104
5123. of the Revised Code requiring the department to distribute 20105

funds to county boards of developmental disabilities, the 20106
department may withhold funds from a board if it finds that the 20107
board is not in substantial compliance with the standards 20108
established under this section. 20109

(F) When the standards for accreditation from the 20110
commission on accreditation of rehabilitation facilities, or 20111
another accrediting agency, meet or exceed the standards 20112
established under this section, the director may accept 20113
accreditation from the commission or other agency as evidence 20114
that the board is in compliance with all or part of the 20115
standards established under this section. Programs and services 20116
accredited by the commission or agency are exempt from the 20117
program quality reviews required by division (E) of this 20118
section. 20119

Sec. 5126.11. (A) As used in this section, "respite care" 20120
means appropriate, short-term, temporary care that is provided 20121
to a ~~mentally retarded or developmentally disabled person~~ with 20122
an intellectual or developmental disability to sustain the 20123
family structure or to meet planned or emergency needs of the 20124
family. 20125

(B) Subject to rules adopted by the director of 20126
developmental disabilities, and subject to the availability of 20127
money from state and federal sources, the county board of 20128
developmental disabilities shall establish a family support 20129
services program. Under such a program, the board shall make 20130
payments to an individual with ~~mental retardation~~ an 20131
intellectual or other developmental disability or the family of 20132
an individual with ~~mental retardation~~ an intellectual or other 20133
developmental disability who desires to remain in and be 20134
supported in the family home. Payments shall be made for all or 20135

part of costs incurred or estimated to be incurred for services 20136
that would promote self-sufficiency and normalization, prevent 20137
or reduce inappropriate institutional care, and further the 20138
unity of the family by enabling the family to meet the special 20139
needs of the individual and to live as much like other families 20140
as possible. Payments may be made in the form of reimbursement 20141
for expenditures or in the form of vouchers to be used to 20142
purchase services. 20143

(C) Payment shall not be made under this section to an 20144
individual or the individual's family if the individual is 20145
living in a residential facility that is providing residential 20146
services under contract with the department of developmental 20147
disabilities or a county board. 20148

(D) Payments may be made for the following services: 20149

(1) Respite care, in or out of the home; 20150

(2) Counseling, supervision, training, and education of 20151
the individual, the individual's caregivers, and members of the 20152
individual's family that aid the family in providing proper care 20153
for the individual, provide for the special needs of the family, 20154
and assist in all aspects of the individual's daily living; 20155

(3) Special diets, purchase or lease of special equipment, 20156
or modifications of the home, if such diets, equipment, or 20157
modifications are necessary to improve or facilitate the care 20158
and living environment of the individual; 20159

(4) Providing support necessary for the individual's 20160
continued skill development, including such services as 20161
development of interventions to cope with unique problems that 20162
may occur within the complexity of the family, enrollment of the 20163
individual in special summer programs, provision of appropriate 20164

leisure activities, and other social skills development 20165
activities; 20166

(5) Any other services that are consistent with the 20167
purposes specified in division (B) of this section and specified 20168
in the individual's service plan. 20169

(E) In order to be eligible for payments under a family 20170
support services program, the individual or the individual's 20171
family must reside in the county served by the county board, and 20172
the individual must be in need of habilitation. Payments shall 20173
be adjusted for income in accordance with the payment schedule 20174
established in rules adopted under this section. Payments shall 20175
be made only after the county board has taken into account all 20176
other available assistance for which the individual or family is 20177
eligible. 20178

(F) Before incurring expenses for a service for which 20179
payment will be sought under a family support services program, 20180
the individual or family shall apply to the county board for a 20181
determination of eligibility and approval of the service. The 20182
service need not be provided in the county served by the county 20183
board. After being determined eligible and receiving approval 20184
for the service, the individual or family may incur expenses for 20185
the service or use the vouchers received from the county board 20186
for the purchase of the service. 20187

If the county board refuses to approve a service, an 20188
appeal may be made in accordance with rules adopted by the 20189
department under this section. 20190

(G) To be reimbursed for expenses incurred for approved 20191
services, the individual or family shall submit to the county 20192
board a statement of the expenses incurred accompanied by any 20193

evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in carrying out a family support services program:

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of developmental disabilities;

(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;

(3) Providing services to eligible children and adults currently residing in the community;

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.

(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:

(1) A payment schedule adjusted for income;

(2) Standards for supervision, training, and quality control in the provision of respite care services;

(3) Eligibility standards and procedures for providing

temporary emergency respite care; 20222

(4) Procedures for hearing and deciding appeals made under 20223
division (F) of this section. 20224

Rules adopted under division (I) (1) of this section shall 20225
be adopted in accordance with section 111.15 of the Revised 20226
Code. Rules adopted under divisions (I) (2) to (4) of this 20227
section shall be adopted in accordance with Chapter 119. of the 20228
Revised Code. 20229

(J) All individuals certified by the superintendent of the 20230
county board as eligible for temporary emergency respite care in 20231
accordance with rules adopted under this section shall be 20232
considered eligible for temporary emergency respite care for not 20233
more than five days to permit the determination of eligibility 20234
for family support services. The requirements of divisions (E) 20235
and (F) of this section do not apply to temporary emergency 20236
respite care. 20237

(K) The county board shall not be required to make 20238
payments for family support services at a level that exceeds 20239
available state and federal funds for such payments. 20240

Sec. 5126.15. (A) A county board of developmental 20241
disabilities shall provide service and support administration to 20242
each individual three years of age or older who is eligible for 20243
service and support administration if the individual requests, 20244
or a person on the individual's behalf requests, service and 20245
support administration. A board shall provide service and 20246
support administration to each individual receiving home and 20247
community-based services. A board may provide, in accordance 20248
with the service coordination requirements of 34 C.F.R. 303.23, 20249
service and support administration to an individual under three 20250

years of age eligible for early intervention services under 34 20251
C.F.R. part 303. A board may provide service and support 20252
administration to an individual who is not eligible for other 20253
services of the board. Service and support administration shall 20254
be provided in accordance with rules adopted under section 20255
5126.08 of the Revised Code. 20256

A board may provide service and support administration by 20257
directly employing service and support administrators or by 20258
contracting with entities for the performance of service and 20259
support administration. Individuals employed or under contract 20260
as service and support administrators shall not be in the same 20261
collective bargaining unit as employees who perform duties that 20262
are not administrative. 20263

Individuals employed by a board as service and support 20264
administrators shall not be assigned responsibilities for 20265
implementing other services for individuals and shall not be 20266
employed by or serve in a decision-making or policy-making 20267
capacity for any other entity that provides programs or services 20268
to individuals with ~~mental retardation~~ intellectual or 20269
developmental disabilities. An individual employed as a 20270
conditional status service and support administrator shall 20271
perform the duties of service and support administration only 20272
under the supervision of a management employee who is a service 20273
and support administration supervisor. 20274

(B) The individuals employed by or under contract with a 20275
board to provide service and support administration shall do all 20276
of the following: 20277

(1) Establish an individual's eligibility for the services 20278
of the county board of developmental disabilities; 20279

(2) Assess individual needs for services;	20280
(3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the department of developmental disabilities when services included in the plans are funded through medicaid;	20281 20282 20283 20284 20285 20286
(4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;	20287 20288 20289
(5) Assist individuals in making selections from among the providers they have chosen;	20290 20291
(6) Ensure that services are effectively coordinated and provided by appropriate providers;	20292 20293
(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;	20294 20295 20296 20297
(8) Perform quality assurance reviews as a distinct function of service and support administration;	20298 20299
(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual.	20300 20301 20302 20303 20304 20305
Sec. 5126.22. (A) Employees who hold the following positions in a county board of developmental disabilities are	20306 20307

management employees:	20308
assistant superintendent	20309
director of business	20310
director of personnel	20311
adult services director	20312
workshop director	20313
habilitation manager	20314
director of residential services	20315
principal (director of children services)	20316
program or service supervisor	20317
plant manager	20318
production manager	20319
service and support administration supervisor	20320
investigative agent	20321
confidential employees as defined in section 4117.01 of the Revised Code	20322 20323
positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties	20324 20325 20326
positions designated by the county board in accordance with division (D) of this section.	20327 20328
(B) Employees who hold the following positions in a board are professional employees:	20329 20330
personnel licensed or certified pursuant to Chapter 3319.	20331

of the Revised Code	20332
early intervention specialist	20333
physical development specialist	20334
habilitation specialist	20335
work adjustment specialist	20336
placement specialist	20337
vocational evaluator	20338
psychologist	20339
occupational therapist	20340
speech and language pathologist	20341
recreation specialist	20342
behavior management specialist	20343
physical therapist	20344
supportive home services specialist	20345
licensed practical nurse or registered nurse	20346
rehabilitation counselor	20347
doctor of medicine and surgery or of osteopathic medicine	20348
and surgery	20349
dentist	20350
service and support administrator	20351
conditional status service and support administrator	20352
social worker	20353
any position that is not a management position and for	20354

which the standards for certification established by the 20355
director of developmental disabilities under section 5126.25 of 20356
the Revised Code require a bachelor's or higher degree 20357
professional positions designated by the director 20358
professional positions designated by the county board in 20359
accordance with division (D) of this section. 20360
(C) Employees who hold positions in a board that are 20361
neither management positions nor professional positions are 20362
service employees. Service employee positions include: 20363
workshop specialist 20364
workshop specialist assistant 20365
contract procurement specialist 20366
community employment specialist 20367
any assistant to a professional employee certified to 20368
provide, or supervise the provision of, adult services or 20369
service and support administration 20370
service positions designated by the director 20371
service positions designated by a county board in 20372
accordance with division (D) of this section. 20373
(D) A county board may designate a position only if the 20374
position does not include directly providing, or supervising 20375
employees who directly provide, service or instruction to 20376
individuals with ~~mental retardation~~ intellectual or 20377
developmental disabilities. 20378
(E) If a county board desires to have a position 20379
established that is not specifically listed in this section that 20380
includes directly providing, or supervising employees who 20381

directly provide, services or instruction to individuals with 20382
~~mental retardation~~ intellectual or developmental disabilities, 20383
the board shall submit to the director a written description of 20384
the position and request that the director designate the 20385
position as a management, professional, or service position 20386
under this section. The director shall consider each request 20387
submitted under this division and respond within thirty days. If 20388
the director approves the request, the director shall designate 20389
the position as a management, professional, or service position. 20390

(F) A county board shall not terminate its employment of 20391
any management, professional, or service employee solely because 20392
a position is added to or eliminated from those positions listed 20393
in this section or because a position is designated or no longer 20394
designated by the director or a county board. 20395

Sec. 5126.25. (A) The director of developmental 20396
disabilities shall adopt rules under division (C) of this 20397
section establishing uniform standards and procedures for the 20398
certification and registration of persons, other than the 20399
persons described in division (I) of this section, who are 20400
seeking employment with or are employed by either of the 20401
following: 20402

(1) A county board of developmental disabilities; 20403

(2) An entity that contracts with a county board to 20404
operate programs and services for individuals with ~~mental~~ 20405
~~retardation~~ intellectual or developmental disabilities. 20406

(B) No person shall be employed in a position for which 20407
certification or registration is required pursuant to the rules 20408
adopted under this section without the certification or 20409
registration that is required for that position. The person 20410

shall not be employed or shall not continue to be employed if 20411
the required certification or registration is denied, revoked, 20412
or not renewed. 20413

(C) The director shall adopt rules in accordance with 20414
Chapter 119. of the Revised Code as the director considers 20415
necessary to implement and administer this section, including 20416
rules establishing all of the following: 20417

(1) Positions of employment that are subject to this 20418
section and, for each position, whether a person must receive 20419
certification or receive registration to be employed in that 20420
position; 20421

(2) Requirements that must be met to receive the 20422
certification or registration required to be employed in a 20423
particular position, including standards regarding education, 20424
specialized training, and experience, taking into account the 20425
needs of individuals with ~~mental retardation~~ intellectual or 20426
developmental disabilities and the specialized techniques needed 20427
to serve them, except that the rules shall not require a person 20428
designated as a service employee under section 5126.22 of the 20429
Revised Code to have or obtain a bachelor's or higher degree; 20430

(3) Procedures to be followed in applying for initial 20431
certification or registration and for renewing the certification 20432
or registration. 20433

(4) Requirements that must be met for renewal of 20434
certification or registration, which may include continuing 20435
education and professional training requirements; 20436

(5) Subject to section 5126.23 of the Revised Code, 20437
grounds for which certification or registration may be denied, 20438
suspended, or revoked and procedures for appealing the denial, 20439

suspension, or revocation. 20440

(D) Each person seeking certification or registration for 20441
employment shall apply in the manner established in rules 20442
adopted under this section. 20443

(E) (1) Except as provided in division (E) (2) of this 20444
section, the superintendent of each county board is responsible 20445
for taking all actions regarding certification and registration 20446
of employees, other than the position of superintendent, early 20447
intervention supervisor, early intervention specialist, or 20448
investigative agent. For the position of superintendent, early 20449
intervention supervisor, early intervention specialist, or 20450
investigative agent, the director of developmental disabilities 20451
is responsible for taking all such actions. 20452

Actions that may be taken by the superintendent or 20453
director include issuing, renewing, denying, suspending, and 20454
revoking certification and registration. All actions shall be 20455
taken in accordance with the rules adopted under this section. 20456

The superintendent may charge a fee to persons applying 20457
for certification or registration. The superintendent shall 20458
establish the amount of the fee according to the costs the 20459
county board incurs in administering its program for 20460
certification and registration of employees. 20461

A person subject to the denial, suspension, or revocation 20462
of certification or registration may appeal the decision. The 20463
appeal shall be made in accordance with the rules adopted under 20464
this section. 20465

(2) Pursuant to division (C) of section 5126.05 of the 20466
Revised Code, the superintendent may enter into a contract with 20467
any other entity under which the entity is given authority to 20468

carry out all or part of the superintendent's responsibilities 20469
under division (E) (1) of this section. 20470

(F) A person with valid certification or registration 20471
under this section on the effective date of any rules adopted 20472
under this section that increase the standards applicable to the 20473
certification or registration shall have such period as the 20474
rules prescribe, but not less than one year after the effective 20475
date of the rules, to meet the new certification or registration 20476
standards. 20477

(G) A person with valid certification or registration is 20478
qualified to be employed according to that certification or 20479
registration by any county board or entity contracting with a 20480
county board. 20481

(H) The director shall monitor county boards to ensure 20482
that their employees and the employees of their contracting 20483
entities have the applicable certification or registration 20484
required under this section and that the employees are 20485
performing only those functions they are authorized to perform 20486
under the certification or registration. The superintendent of 20487
each county board or the superintendent's designee shall 20488
maintain in appropriate personnel files evidence acceptable to 20489
the director that the employees have met the requirements. On 20490
request, representatives of the department of developmental 20491
disabilities shall be given access to the evidence. 20492

(I) The certification and registration requirements of 20493
this section and the rules adopted under it do not apply to 20494
either of the following: 20495

(1) A person who holds a valid license issued or 20496
certificate issued under Chapter 3319. of the Revised Code and 20497

performs no duties other than teaching or supervision of a teaching program; 20498
20499

(2) A person who holds a valid license or certificate issued under Title XLVII of the Revised Code and performs only those duties governed by the license or certificate. 20500
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20502

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of the Revised Code: 20503
20504

(A) "Adult" means a person eighteen years of age or older with ~~mental retardation~~ an intellectual or a developmental disability. 20505
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(B) "Caretaker" means a person who is responsible for the care of an adult by order of a court, including an order of guardianship, or who assumes the responsibility for the care of an adult as a volunteer, as a family member, by contract, or by the acceptance of payment for care. 20508
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(C) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section. 20513
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(D) "Neglect" has the same meaning as in section 5123.50 of the Revised Code. 20516
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(E) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain, including misappropriation, as defined in section 5123.50 of the Revised Code, of an adult's resources. 20518
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(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in section 1.14 of the Revised Code. 20523
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(G) "Incapacitated" means lacking understanding or 20526
capacity, with or without the assistance of a caretaker, to make 20527
and carry out decisions regarding food, clothing, shelter, 20528
health care, or other necessities, but does not include mere 20529
refusal to consent to the provision of services. 20530

(H) "Emergency protective services" means protective 20531
services furnished to a person with ~~mental retardation~~ an 20532
intellectual or ~~a~~ developmental disability to prevent immediate 20533
physical harm. 20534

(I) "Protective services" means services provided by the 20535
county board of developmental disabilities to an adult with 20536
~~mental retardation~~ an intellectual or ~~a~~ developmental disability 20537
for the prevention, correction, or discontinuance of an act of 20538
as well as conditions resulting from abuse, neglect, or 20539
exploitation. 20540

(J) "Protective service plan" means an individualized plan 20541
developed by the county board of developmental disabilities to 20542
prevent the further abuse, neglect, or exploitation of an adult 20543
with ~~mental retardation~~ an intellectual or ~~a~~ developmental 20544
disability. 20545

(K) "Substantial risk" has the same meaning as in section 20546
2901.01 of the Revised Code. 20547

(L) "Party" means all of the following: 20548

(1) An adult who is the subject of a probate proceeding 20549
under sections 5126.30 to 5126.33 of the Revised Code; 20550

(2) A caretaker, unless otherwise ordered by the probate 20551
court; 20552

(3) Any other person designated as a party by the probate 20553

court including but not limited to, the adult's spouse, 20554
custodian, guardian, or parent. 20555

(M) "Board" means a county board of developmental 20556
disabilities. 20557

Sec. 5126.31. (A) A county board of developmental 20558
disabilities shall review reports of abuse and neglect made 20559
under section 5123.61 of the Revised Code and reports referred 20560
to it under section 5101.611 of the Revised Code to determine 20561
whether the person who is the subject of the report is an adult 20562
with ~~mental retardation~~ an intellectual or ~~a~~ developmental 20563
disability in need of services to deal with the abuse or 20564
neglect. The board shall give notice of each report to the 20565
registry office of the department of developmental disabilities 20566
established pursuant to section 5123.61 of the Revised Code on 20567
the first working day after receipt of the report. If the report 20568
alleges that there is a substantial risk to the adult of 20569
immediate physical harm or death, the board shall initiate 20570
review within twenty-four hours of its receipt of the report. If 20571
the board determines that the person is sixty years of age or 20572
older but does not have ~~mental retardation~~ an intellectual or ~~a~~ 20573
developmental disability, it shall refer the case to the county 20574
department of job and family services. If the board determines 20575
that the person is an adult with ~~mental retardation~~ an 20576
intellectual or ~~a~~ developmental disability, it shall continue 20577
its review of the case. 20578

(B) For each review over which the board retains 20579
responsibility under division (A) of this section, it shall do 20580
all of the following: 20581

(1) Give both written and oral notice of the purpose of 20582
the review to the adult and, if any, to the adult's legal 20583

counsel or caretaker, in simple and clear language; 20584

(2) Visit the adult, in the adult's residence if possible, 20585
and explain the notice given under division (B)(1) of this 20586
section; 20587

(3) Request from the registry office any prior reports 20588
concerning the adult or other principals in the case; 20589

(4) Consult, if feasible, with the person who made the 20590
report under section 5101.61 or 5123.61 of the Revised Code and 20591
with any agencies or persons who have information about the 20592
alleged abuse or neglect; 20593

(5) Cooperate fully with the law enforcement agency 20594
responsible for investigating the report and for filing any 20595
resulting criminal charges and, on request, turn over evidence 20596
to the agency; 20597

(6) Determine whether the adult needs services, and 20598
prepare a written report stating reasons for the determination. 20599
No adult shall be determined to be abused, neglected, or in need 20600
of services for the sole reason that, in lieu of medical 20601
treatment, the adult relies on or is being furnished spiritual 20602
treatment through prayer alone in accordance with the tenets and 20603
practices of a church or religious denomination of which the 20604
adult is a member or adherent. 20605

(C) The board shall arrange for the provision of services 20606
for the prevention, correction or discontinuance of abuse or 20607
neglect or of a condition resulting from abuse or neglect for 20608
any adult who has been determined to need the services and 20609
consents to receive them. These services may include, but are 20610
not limited to, service and support administration, fiscal 20611
management, medical, mental health, home health care, homemaker, 20612

legal, and residential services and the provision of temporary 20613
accommodations and necessities such as food and clothing. The 20614
services do not include acting as a guardian, trustee, or 20615
protector as defined in section 5123.55 of the Revised Code. If 20616
the provision of residential services would require expenditures 20617
by the department of developmental disabilities, the board shall 20618
obtain the approval of the department prior to arranging the 20619
residential services. 20620

To arrange services, the board shall: 20621

(1) Develop an individualized service plan identifying the 20622
types of services required for the adult, the goals for the 20623
services, and the persons or agencies that will provide them; 20624

(2) In accordance with rules established by the director 20625
of developmental disabilities, obtain the consent of the adult 20626
or the adult's guardian to the provision of any of these 20627
services and obtain the signature of the adult or guardian on 20628
the individual service plan. An adult who has been found 20629
incompetent under Chapter 2111. of the Revised Code may consent 20630
to services. If the board is unable to obtain consent, it may 20631
seek, if the adult is incapacitated, a court order pursuant to 20632
section 5126.33 of the Revised Code authorizing the board to 20633
arrange these services. 20634

(D) The board shall ensure that the adult receives the 20635
services arranged by the board from the provider and shall have 20636
the services terminated if the adult withdraws consent. 20637

(E) On completion of a review, the board shall submit a 20638
written report to the registry office established under section 20639
5123.61 of the Revised Code. If the report includes a finding 20640
that a person with ~~mental retardation~~ an intellectual or a- 20641

developmental disability is a victim of action or inaction that 20642
may constitute a crime under federal law or the law of this 20643
state, the board shall submit the report to the law enforcement 20644
agency responsible for investigating the report. Reports 20645
prepared under this section are not public records as defined in 20646
section 149.43 of the Revised Code. 20647

Sec. 5126.33. (A) A county board of developmental 20648
disabilities may file a complaint with the probate court of the 20649
county in which an adult with ~~mental retardation~~ an intellectual 20650
or ~~a~~ developmental disability resides for an order authorizing 20651
the board to arrange services described in division (C) of 20652
section 5126.31 of the Revised Code for that adult if the adult 20653
is eligible to receive services or support under section 20654
5126.041 of the Revised Code and the board has been unable to 20655
secure consent. The complaint shall include: 20656

(1) The name, age, and address of the adult; 20657

(2) Facts describing the nature of the abuse, neglect, or 20658
exploitation and supporting the board's belief that services are 20659
needed; 20660

(3) The types of services proposed by the board, as set 20661
forth in the protective service plan described in division (J) 20662
of section 5126.30 of the Revised Code and filed with the 20663
complaint; 20664

(4) Facts showing the board's attempts to obtain the 20665
consent of the adult or the adult's guardian to the services. 20666

(B) The board shall give the adult notice of the filing of 20667
the complaint and in simple and clear language shall inform the 20668
adult of the adult's rights in the hearing under division (C) of 20669
this section and explain the consequences of a court order. This 20670

notice shall be personally served upon all parties, and also 20671
shall be given to the adult's legal counsel, if any, and the 20672
legal rights service. The notice shall be given at least twenty- 20673
four hours prior to the hearing, although the court may waive 20674
this requirement upon a showing that there is a substantial risk 20675
that the adult will suffer immediate physical harm in the 20676
twenty-four hour period and that the board has made reasonable 20677
attempts to give the notice required by this division. 20678

(C) Upon the filing of a complaint for an order under this 20679
section, the court shall hold a hearing at least twenty-four 20680
hours and no later than seventy-two hours after the notice under 20681
division (B) of this section has been given unless the court has 20682
waived the notice. All parties shall have the right to be 20683
present at the hearing, present evidence, and examine and cross- 20684
examine witnesses. The Ohio Rules of Evidence shall apply to a 20685
hearing conducted pursuant to this division. The adult shall be 20686
represented by counsel unless the court finds that the adult has 20687
made a voluntary, informed, and knowing waiver of the right to 20688
counsel. If the adult is indigent, the court shall appoint 20689
counsel to represent the adult. The board shall be represented 20690
by the county prosecutor or an attorney designated by the board. 20691

(D) (1) The court shall issue an order authorizing the 20692
board to arrange the protective services if it finds, on the 20693
basis of clear and convincing evidence, all of the following: 20694

(a) The adult has been abused, neglected, or exploited; 20695

(b) The adult is incapacitated; 20696

(c) There is a substantial risk to the adult of immediate 20697
physical harm or death; 20698

(d) The adult is in need of the services; 20699

(e) No person authorized by law or court order to give 20700
consent for the adult is available or willing to consent to the 20701
services. 20702

(2) The board shall develop a detailed protective service 20703
plan describing the services that the board will provide, or 20704
arrange for the provision of, to the adult to prevent further 20705
abuse, neglect, or exploitation. The board shall submit the plan 20706
to the court for approval. The protective service plan may be 20707
changed only by court order. 20708

(3) In formulating the order, the court shall consider the 20709
individual protective service plan and shall specifically 20710
designate the services that are necessary to deal with the 20711
abuse, neglect, or exploitation or condition resulting from 20712
abuse, neglect, or exploitation and that are available locally, 20713
and authorize the board to arrange for these services only. The 20714
court shall limit the provision of these services to a period 20715
not exceeding six months, renewable for an additional six-month 20716
period on a showing by the board that continuation of the order 20717
is necessary. 20718

(E) If the court finds that all other options for meeting 20719
the adult's needs have been exhausted, it may order that the 20720
adult be removed from the adult's place of residence and placed 20721
in another residential setting. Before issuing that order, the 20722
court shall consider the adult's choice of residence and shall 20723
determine that the new residential setting is the least 20724
restrictive alternative available for meeting the adult's needs 20725
and is a place where the adult can obtain the necessary 20726
requirements for daily living in safety. The court shall not 20727
order an adult to a hospital or public hospital as defined in 20728
section 5122.01 or a state institution as defined in section 20729

5123.01 of the Revised Code. 20730

(F) The court shall not authorize a change in an adult's 20731
placement ordered under division (E) of this section unless it 20732
finds compelling reasons to justify a change. The parties to 20733
whom notice was given in division (B) of this section shall be 20734
given notice of a proposed change at least five working days 20735
prior to the change. 20736

(G) The adult, the board, or any other person who received 20737
notice of the petition may file a motion for modification of the 20738
court order at any time. 20739

(H) The county board shall pay court costs incurred in 20740
proceedings brought pursuant to this section. The adult shall 20741
not be required to pay for court-ordered services. 20742

(I) (1) After the filing of a complaint for an order under 20743
this section, the court, prior to the final disposition, may 20744
enter any temporary order that the court finds necessary to 20745
protect the adult with ~~mental retardation~~ an intellectual or a- 20746
developmental disability from abuse, neglect, or exploitation 20747
including, but not limited to, the following: 20748

(a) A temporary protection order; 20749

(b) An order requiring the evaluation of the adult; 20750

(c) An order requiring a party to vacate the adult's place 20751
of residence or legal settlement, provided that, subject to 20752
division (K) (1) (d) of this section, no operator of a residential 20753
facility licensed by the department may be removed under this 20754
division; 20755

(d) In the circumstances described in, and in accordance 20756
with the procedures set forth in, section 5123.191 of the 20757

Revised Code, an order of the type described in that section 20758
that appoints a receiver to take possession of and operate a 20759
residential facility licensed by the department. 20760

(2) The court may grant an ex parte order pursuant to this 20761
division on its own motion or if a party files a written motion 20762
or makes an oral motion requesting the issuance of the order and 20763
stating the reasons for it if it appears to the court that the 20764
best interest and the welfare of the adult require that the 20765
court issue the order immediately. The court, if acting on its 20766
own motion, or the person requesting the granting of an ex parte 20767
order, to the extent possible, shall give notice of its intent 20768
or of the request to all parties, the adult's legal counsel, if 20769
any, and the legal rights service. If the court issues an ex 20770
parte order, the court shall hold a hearing to review the order 20771
within seventy-two hours after it is issued or before the end of 20772
the next day after the day on which it is issued, whichever 20773
occurs first. The court shall give written notice of the hearing 20774
to all parties to the action. 20775

Sec. 5126.333. Any person who has reason to believe that 20776
there is a substantial risk to an adult with ~~mental retardation~~ 20777
an intellectual or ~~a~~ developmental disability of immediate 20778
physical harm or death and that the responsible county board of 20779
developmental disabilities has failed to seek an order pursuant 20780
to section 5126.33 or 5126.331 of the Revised Code may notify 20781
the department of developmental disabilities. Within twenty-four 20782
hours of receipt of such notice, the department shall cause an 20783
investigation to be conducted regarding the notice. The 20784
department shall provide assistance to the county board to 20785
provide for the health and safety of the adult as permitted by 20786
law. 20787

Sec. 5126.40. (A) Sections 5126.40 to 5126.47 of the Revised Code do not apply to medicaid-funded supported living.

(B) As used in sections 5126.40 to 5126.47 of the Revised Code, "provider" means a person or government entity certified by the director of developmental disabilities to provide supported living for individuals with ~~mental retardation~~ intellectual and developmental disabilities.

(C) On and after July 1, 1995, each county board shall plan and develop supported living for individuals with ~~mental retardation~~ intellectual and developmental disabilities who are residents of the county in accordance with sections 5126.41 to 5126.47 of the Revised Code.

Sec. 5126.46. (A) No county board of developmental disabilities shall be obligated to use any money other than money in the community developmental disabilities residential services fund to furnish residential services.

(B) Except with respect to a child required to be provided services pursuant to section 121.38 of the Revised Code, no court or other entity of state or local government shall order or otherwise require a county board of developmental disabilities to use money from local sources for residential services for an individual with ~~mental retardation~~ an intellectual or developmental ~~disabilities~~ disability or to arrange for residential services for such an individual unless a vacancy exists in an appropriate residential setting within the county.

Sec. 5126.49. The county board of developmental disabilities may adopt a resolution requesting the board of county commissioners to implement a residential facility linked

deposit program under sections 5126.51 to 5126.62 of the Revised 20817
Code if the county board of developmental disabilities finds all 20818
of the following: 20819

(A) There is a shortage of residential facilities in the 20820
county for individuals with ~~mental retardation~~ intellectual or 20821
developmental disabilities. 20822

(B) Eligible organizations, otherwise willing and able to 20823
develop residential facilities in the county, have been unable 20824
to do so because of high interest rates. 20825

(C) Placement of residential facility linked deposits will 20826
assist in financing the development of residential facilities in 20827
the county that otherwise would not be developed because of high 20828
interest rates. 20829

The board shall transmit a certified copy of the 20830
resolution to the board of county commissioners. 20831

Sec. 5126.52. The general assembly finds that individuals 20832
with ~~mental retardation~~ intellectual or developmental 20833
disabilities residing in the state face a shortage of suitable 20834
residential facilities; that loans to finance the development of 20835
suitable residential facilities are subject to high interest 20836
rates; that eligible organizations, otherwise willing and able 20837
to develop suitable residential facilities, are unable to do so 20838
because of the high interest rates; and, consequently, that the 20839
shortage of suitable residential facilities is likely to 20840
continue and worsen. 20841

The residential facility linked deposit program, when 20842
implemented in a county, is intended to provide low-cost funds 20843
for lending purposes that will effectively reduce high interest 20844
rates and materially contribute to remedying the shortage of 20845

suitable residential facilities for individuals with ~~mental-~~ 20846
~~retardation-intellectual~~ or developmental disabilities who 20847
reside in the county. 20848

Sec. 5126.55. The county board of developmental 20849
disabilities shall review each application filed under section 20850
5126.54 of the Revised Code and adopt a resolution approving or 20851
disapproving development of the proposed residential facility. 20852
The board shall not approve development of the proposed 20853
residential facility unless it finds, based upon the application 20854
and its evaluation of the applicant, that development of the 20855
residential facility is consistent with its plan and priorities, 20856
under section 5126.05 of the Revised Code, for the provision of 20857
residential facilities for individuals with ~~mental-retardation-~~ 20858
~~intellectual~~ or developmental disabilities residing in the 20859
county. 20860

The resolution shall include specific findings of fact 20861
justifying the approval or disapproval. 20862

The board shall transmit a certified copy of the 20863
resolution to the applicant and to the board of county 20864
commissioners. 20865

Sec. 5126.58. The county board of developmental 20866
disabilities shall adopt a resolution approving or disapproving 20867
an eligible organization's application for a residential 20868
facility linked deposit loan. The board shall disapprove an 20869
application unless it finds, based on the application and its 20870
evaluation of the applicant, each of the following: 20871

(A) The applicant has fully complied with sections 5126.54 20872
and 5126.56 of the Revised Code. 20873

(B) Development of the residential facility will 20874

materially contribute to alleviating the shortage of residential 20875
facilities in the county for individuals with ~~mental retardation~~ 20876
intellectual or developmental disabilities. 20877

(C) The applicant is ready to proceed with development of 20878
the residential facility, but is unable to do so because of high 20879
interest rates. 20880

(D) The board of county commissioners has certified that 20881
public moneys of the county are currently available for 20882
placement of the residential facility linked deposit necessary 20883
to provide low-cost financing to the applicant. 20884

(E) Placement of the residential facility linked deposit, 20885
considered in the aggregate with all other residential facility 20886
linked deposits under the county's residential facility linked 20887
deposit program, will not cause the total amount of the county's 20888
residential facility linked deposits to exceed an amount equal 20889
to ten per cent of the operating budget of the county board of 20890
developmental disabilities for the current year. If placement of 20891
the residential facility linked deposit would cause the total 20892
amount of the county's residential facility linked deposits to 20893
exceed the maximum established by this division, the board may 20894
accept the application but limit the amount of the residential 20895
facility linked deposit accordingly. 20896

The resolution shall include specific findings of fact 20897
justifying acceptance or rejection of the application. If the 20898
board accepts the application, it shall specify the amount of 20899
the residential facility linked deposit in the resolution. 20900

The board shall transmit a certified copy of the 20901
resolution to the applicant, the eligible lending institution, 20902
and the county's investing authority. 20903

Sec. 5139.06. (A) When a child has been committed to the department of youth services, the department shall do both of the following:

(1) Place the child in an appropriate institution under the condition that it considers best designed for the training and rehabilitation of the child and the protection of the public, provided that the institutional placement shall be consistent with the order committing the child to its custody;

(2) Maintain the child in institutional care or institutional care in a secure facility for the required period of institutionalization in a manner consistent with division (A) (1) of section 2152.16 and divisions (A) to (F) of section 2152.17 of the Revised Code, whichever are applicable, and with section 5139.38 or division (B), (C), or (D) of section 2152.22 of the Revised Code.

(B) When a child has been committed to the department of youth services and has not been institutionalized or institutionalized in a secure facility for the prescribed minimum period of time, including, but not limited to, a prescribed period of time under division (A) (1) (a) of section 2152.16 of the Revised Code, the department, the child, or the child's parent may request the court that committed the child to order a judicial release to court supervision or a judicial release to department of youth services supervision in accordance with division (B), (C), or (D) of section 2152.22 of the Revised Code, and the child may be released from institutionalization or institutionalization in a secure facility in accordance with the applicable division. A child in those circumstances shall not be released from institutionalization or institutionalization in a secure

facility except in accordance with section 2152.22 or 5139.38 of 20934
the Revised Code. When a child is released pursuant to a 20935
judicial release to court supervision under division (B) or (D) 20936
of section 2152.22 of the Revised Code, the department shall 20937
comply with division (B) (3) of that section and, if the court 20938
requests, shall send the committing court a report on the 20939
child's progress in the institution and recommendations for 20940
conditions of supervision by the court after release. When a 20941
child is released pursuant to a judicial release to department 20942
of youth services supervision under division (C) or (D) of 20943
section 2152.22 of the Revised Code, the department shall comply 20944
with division (C) (3) of that section relative to the child and 20945
shall send the committing court and the juvenile court of the 20946
county in which the child is placed a copy of the treatment and 20947
rehabilitation plan described in that division and the 20948
conditions that it fixed. The court of the county in which the 20949
child is placed may adopt the conditions as an order of the 20950
court and may add any additional consistent conditions it 20951
considers appropriate, provided that the court may not add any 20952
condition that decreases the level or degree of supervision 20953
specified by the department in its plan, that substantially 20954
increases the financial burden of supervision that will be 20955
experienced by the department, or that alters the placement 20956
specified by the department in its plan. Any violations of the 20957
conditions of the child's judicial release or early release 20958
shall be handled pursuant to division (E) of section 2152.22 of 20959
the Revised Code. 20960

(C) When a child has been committed to the department of 20961
youth services, the department may do any of the following: 20962

(1) Notwithstanding the provisions of this chapter, 20963
Chapter 2151., or Chapter 2152. of the Revised Code that 20964

prescribe required periods of institutionalization, transfer the 20965
child to any other state institution, whenever it appears that 20966
the child by reason of mental illness, ~~mental retardation,~~ or an 20967
intellectual or other developmental disability ought to be in 20968
another state institution. Before transferring a child to any 20969
other state institution, the department shall include in the 20970
minutes a record of the order of transfer and the reason for the 20971
transfer and, at least seven days prior to the transfer, shall 20972
send a certified copy of the order to the person shown by its 20973
record to have had the care or custody of the child immediately 20974
prior to the child's commitment. Except as provided in division 20975
(C) (2) of this section, no person shall be transferred from a 20976
benevolent institution to a correctional institution or to a 20977
facility or institution operated by the department of youth 20978
services. 20979

(2) Notwithstanding the provisions of this chapter, 20980
Chapter 2151., or Chapter 2152. of the Revised Code that 20981
prescribe required periods of institutionalization, transfer the 20982
child under section 5120.162 of the Revised Code to a 20983
correctional medical center established by the department of 20984
rehabilitation and correction, whenever the child has an 20985
illness, physical condition, or other medical problem and it 20986
appears that the child would benefit from diagnosis or treatment 20987
at the center for that illness, condition, or problem. Before 20988
transferring a child to a center, the department of youth 20989
services shall include in the minutes a record of the order of 20990
transfer and the reason for the transfer and, except in 20991
emergency situations, at least seven days prior to the transfer, 20992
shall send a certified copy of the order to the person shown by 20993
its records to have had the care or custody of the child 20994
immediately prior to the child's commitment. If the transfer of 20995

the child occurs in an emergency situation, as soon as possible 20996
after the decision is made to make the transfer, the department 20997
of youth services shall send a certified copy of the order to 20998
the person shown by its records to have had the care or custody 20999
of the child immediately prior to the child's commitment. A 21000
transfer under this division shall be in accordance with the 21001
terms of the agreement the department of youth services enters 21002
into with the department of rehabilitation and correction under 21003
section 5120.162 of the Revised Code and shall continue only as 21004
long as the child reasonably appears to receive benefit from 21005
diagnosis or treatment at the center for an illness, physical 21006
condition, or other medical problem. 21007

(3) Revoke or modify any order of the department except an 21008
order of discharge as often as conditions indicate it to be 21009
desirable; 21010

(4) If the child was committed pursuant to division (A) (1) 21011
(b), (c), (d), or (e) of section 2152.16 of the Revised Code and 21012
has been institutionalized or institutionalized in a secure 21013
facility for the prescribed minimum periods of time under the 21014
division pursuant to which the commitment was made, assign the 21015
child to a family home, a group care facility, or other place 21016
maintained under public or private auspices, within or without 21017
this state, for necessary treatment and rehabilitation, the 21018
costs of which may be paid by the department, provided that the 21019
department shall notify the committing court, in writing, of the 21020
place and terms of the assignment at least fifteen days prior to 21021
the scheduled date of the assignment; 21022

(5) Release the child from an institution in accordance 21023
with sections 5139.51 to 5139.54 of the Revised Code in the 21024
circumstances described in those sections. 21025

(D) The department of youth services shall notify the 21026
committing court of any order transferring the physical location 21027
of any child committed to it in accordance with section 5139.35 21028
of the Revised Code. Upon the discharge from its custody and 21029
control, the department may petition the court for an order 21030
terminating its custody and control. 21031

Sec. 5139.08. The department of youth services may enter 21032
into an agreement with the director of rehabilitation and 21033
correction pursuant to which the department of youth services, 21034
in accordance with division (C) (2) of section 5139.06 and 21035
section 5120.162 of the Revised Code, may transfer to a 21036
correctional medical center established by the department of 21037
rehabilitation and correction, children who are within its 21038
custody for diagnosis or treatment of an illness, physical 21039
condition, or other medical problem. The department of youth 21040
services may enter into any other agreements with the director 21041
of job and family services, the director of mental health and 21042
addiction services, the director of developmental disabilities, 21043
the director of rehabilitation and correction, with the courts 21044
having probation officers or other public officials, and with 21045
private agencies or institutions for separate care or special 21046
treatment of children subject to the control of the department 21047
of youth services. The department of youth services may, upon 21048
the request of a juvenile court not having a regular probation 21049
officer, provide probation services for such court. 21050

Upon request by the department of youth services, any 21051
public agency or group care facility established or administered 21052
by the state for the care and treatment of children and youth 21053
shall, consistent with its functions, accept and care for any 21054
child whose custody is vested in the department in the same 21055
manner as it would be required to do if custody had been vested 21056

by a court in such agency or group care facility. If the 21057
department has reasonable grounds to believe that any child or 21058
youth whose custody is vested in it ~~is mentally ill or mentally~~ 21059
~~retarded~~ has a mental illness or an intellectual disability, the 21060
department may file an affidavit under section 5122.11 or 21061
5123.76 of the Revised Code. The department's affidavit for 21062
admission of a child or youth to such institution shall be filed 21063
with the probate court of the county from which the child was 21064
committed to the department. Such court may request the probate 21065
court of the county in which the child is held to conduct the 21066
hearing on the application, in which case the court making such 21067
request shall bear the expenses of the proceeding. If the 21068
department files such an affidavit, the child or youth may be 21069
kept in such institution until a final decision on the affidavit 21070
is made by the appropriate court. 21071

Sec. 5139.12. Any person who is required, pursuant to 21072
division (A) of section 2151.421 of the Revised Code, to report 21073
the person's knowledge of or reasonable cause to suspect abuse 21074
or neglect or threat of abuse or neglect of a child under 21075
eighteen years of age or a ~~mentally retarded, developmentally~~ 21076
~~disabled, or physically impaired~~ child under twenty-one years of 21077
age with an intellectual or developmental disability or a 21078
physical impairment or any person who is permitted, pursuant to 21079
division (B) of that section, to report, or cause such a report 21080
to be made and who makes or causes the report to be made, shall 21081
direct that report to the state highway patrol if the child is a 21082
delinquent child in the custody of an institution. If the state 21083
highway patrol determines after receipt of the report that there 21084
is probable cause that abuse or neglect or threat of abuse or 21085
neglect of the delinquent child occurred, the highway patrol 21086
shall report its findings to the department of youth services, 21087

to the court that ordered the disposition of the delinquent 21088
child for the act that would have been an offense if committed 21089
by an adult and for which the delinquent child is in the custody 21090
of the department, to the public children services agency in the 21091
county in which the child resides or in which the abuse or 21092
neglect or threat of abuse or neglect occurred, and to the 21093
chairperson and vice-chairperson of the correctional institution 21094
inspection committee established by section 103.71 of the 21095
Revised Code. 21096

Sec. 5139.27. The department of youth services shall adopt 21097
rules prescribing the minimum standards of construction for a 21098
school, forestry camp, or other facility established under 21099
section 2151.65 of the Revised Code for which financial 21100
assistance may be granted to assist in defraying the cost of the 21101
construction of the school, forestry camp, or other facility. If 21102
an application for that financial assistance is filed with the 21103
department under section 2151.651 of the Revised Code, and the 21104
department finds that the application is in proper form and the 21105
specifications for the construction of the school, forestry 21106
camp, or other facility meet the minimum standards set forth in 21107
the rules adopted by the department, the department may, from 21108
moneys available to it for granting financial assistance for the 21109
construction of schools, forestry camps, or other facilities 21110
established under section 2151.65 of the Revised Code, grant 21111
financial assistance to the county making the application, 21112
subject to the approval of the controlling board, in an amount 21113
not to exceed one-half of the county's share of the cost of 21114
construction of the school, forestry camp, or other facility but 21115
not to exceed six thousand five hundred dollars for each bed 21116
unit provided for in the school, forestry camp, or other 21117
facility. As used in this section, "construction" means the 21118

building and the initial equipping of new structures and, to the extent provided for in rules adopted by the department, the acquisition, remodeling, and initial equipping of existing structures, excluding architect's fees and the cost of land acquisition.

A county that receives financial assistance under this section shall not be obligated to repay the assistance to the state unless the school, forestry camp, or other facility for which the assistance is granted is used within the ten-year period immediately following its establishment for other than the purpose of rehabilitating children between the ages of twelve to eighteen years, other than ~~psychotic or mentally-retarded~~ children with intellectual disabilities or who are psychotic, who are designated delinquent children, as defined in section 2152.02 of the Revised Code, or unruly, as defined in section 2151.022 of the Revised Code, by order of a juvenile court. If the department of youth services finds that the school, forestry camp, or other facility is used for other than that purpose within that ten-year period, the county shall be obligated to repay the assistance to the state and, through its board of county commissioners, may enter into an agreement with the director of budget and management for the discharge of that obligation over a period not to exceed ten years in duration. Whenever a county is obligated to repay that assistance to the state and its board of county commissioners fails to enter into or fails to comply with an agreement for the discharge of that obligation, the tax commissioner, pursuant to section 5747.54 of the Revised Code, shall withhold from distribution to the county from the local government fund an amount sufficient to discharge the county from that obligation to the state.

Sec. 5139.39. The department of youth services, in the

manner provided in this chapter and Chapter 2151. of the Revised 21150
Code, may transfer to a foster care facility certified by the 21151
department of job and family services under section 5103.03 of 21152
the Revised Code, any child committed to it and, in the event of 21153
a transfer of that nature, unless otherwise mutually agreed, the 21154
department of youth services shall bear the cost of care and 21155
services provided for the child in the foster care facility. A 21156
juvenile court may transfer to any foster facility certified by 21157
the department of job and family services any child between 21158
twelve and eighteen years of age, other than a ~~psychotic or~~ 21159
~~mentally retarded~~ child with an intellectual disability or who 21160
is psychotic, who has been designated a delinquent child and 21161
placed on probation by order of the juvenile court as a result 21162
of having violated any law of this state or the United States or 21163
any ordinance of a political subdivision of this state. 21164

Sec. 5139.54. (A) Notwithstanding any other provision for 21165
determining when a child shall be released or discharged from 21166
the legal custody of the department of youth services, including 21167
jurisdictional provisions in section 2152.22 of the Revised 21168
Code, the release authority, for medical reasons, may release a 21169
child upon supervised release or discharge the child from the 21170
custody of the department when any of the following applies: 21171

(1) The child is terminally ill or otherwise in imminent 21172
danger of death. 21173

(2) The child is incapacitated due to injury, disease, 21174
illness, or other medical condition and is no longer a threat to 21175
public safety. 21176

(3) The child appears to be a mentally ill person subject 21177
to court order, as defined in section 5122.01 of the Revised 21178
Code, or a ~~mentally retarded~~ person with an intellectual 21179

disability subject to institutionalization by court order, as 21180
defined in section 5123.01 of the Revised Code. 21181

(B) When considering whether to release or discharge a 21182
child under this section for medical reasons, the release 21183
authority may request additional medical information about the 21184
child or may ask the department to conduct additional medical 21185
examinations. 21186

(C) The release authority shall determine the appropriate 21187
level of supervised release for a child released under this 21188
section. The terms and conditions of the release may require 21189
periodic medical reevaluations as appropriate. Upon granting a 21190
release or discharge under this section, the release authority 21191
shall give notice of the release and its terms and conditions or 21192
of the discharge to the court that committed the child to the 21193
custody of the department. 21194

(D) The release authority shall submit annually to the 21195
director of youth services a report that includes all of the 21196
following information for the previous calendar year: 21197

(1) The number of children the release authority 21198
considered for medical release or discharge; 21199

(2) The nature of the injury, disease, illness, or other 21200
medical condition of each child considered for medical release 21201
or discharge; 21202

(3) The decision made by the release authority for each 21203
child, including the reasons for denying medical release or 21204
discharge or for granting it; 21205

(4) The number of children on medical release who were 21206
returned to a secure facility or whose supervised release was 21207
revoked. 21208

Sec. 5164.25. The departments of developmental 21209
disabilities and medicaid may approve, reduce, deny, or 21210
terminate a medicaid service included in the individualized 21211
service plan developed for a medicaid recipient with ~~mental-~~ 21212
~~retardation~~ an intellectual or other developmental disability 21213
who is eligible for medicaid case management services. If either 21214
department approves, reduces, denies, or terminates a service, 21215
that department shall timely notify the medicaid recipient that 21216
the recipient may appeal pursuant to section 5160.31 of the 21217
Revised Code. 21218

Sec. 5164.342. (A) As used in this section: 21219

"Applicant" means a person who is under final 21220
consideration for employment with a waiver agency in a full- 21221
time, part-time, or temporary position that involves providing 21222
home and community-based services. 21223

"Community-based long-term care provider" means a provider 21224
as defined in section 173.39 of the Revised Code. 21225

"Community-based long-term care subcontractor" means a 21226
subcontractor as defined in section 173.38 of the Revised Code. 21227

"Criminal records check" has the same meaning as in 21228
section 109.572 of the Revised Code. 21229

"Disqualifying offense" means any of the offenses listed 21230
or described in divisions (A) (3) (a) to (e) of section 109.572 of 21231
the Revised Code. 21232

"Employee" means a person employed by a waiver agency in a 21233
full-time, part-time, or temporary position that involves 21234
providing home and community-based services. 21235

"Waiver agency" means a person or government entity that 21236

provides home and community-based services under a home and 21237
community-based services medicaid waiver component administered 21238
by the department of medicaid, other than such a person or 21239
government entity that is certified under the medicare program. 21240
"Waiver agency" does not mean an independent provider as defined 21241
in section 5164.341 of the Revised Code. 21242

(B) This section does not apply to any individual who is 21243
subject to a database review or criminal records check under 21244
section 3701.881 of the Revised Code. If a waiver agency also is 21245
a community-based long-term care provider or community-based 21246
long-term care subcontractor, the waiver agency may provide for 21247
applicants and employees to undergo database reviews and 21248
criminal records checks in accordance with section 173.38 of the 21249
Revised Code rather than this section. 21250

(C) No waiver agency shall employ an applicant or continue 21251
to employ an employee in a position that involves providing home 21252
and community-based services if any of the following apply: 21253

(1) A review of the databases listed in division (E) of 21254
this section reveals any of the following: 21255

(a) That the applicant or employee is included in one or 21256
more of the databases listed in divisions (E) (1) to (5) of this 21257
section; 21258

(b) That there is in the state nurse aide registry 21259
established under section 3721.32 of the Revised Code a 21260
statement detailing findings by the director of health that the 21261
applicant or employee neglected or abused a long-term care 21262
facility or residential care facility resident or 21263
misappropriated property of such a resident; 21264

(c) That the applicant or employee is included in one or 21265

more of the databases, if any, specified in rules authorized by 21266
this section and the rules prohibit the waiver agency from 21267
employing an applicant or continuing to employ an employee 21268
included in such a database in a position that involves 21269
providing home and community-based services. 21270

(2) After the applicant or employee is given the 21271
information and notification required by divisions (F) (2) (a) and 21272
(b) of this section, the applicant or employee fails to do 21273
either of the following: 21274

(a) Access, complete, or forward to the superintendent of 21275
the bureau of criminal identification and investigation the form 21276
prescribed to division (C) (1) of section 109.572 of the Revised 21277
Code or the standard impression sheet prescribed pursuant to 21278
division (C) (2) of that section; 21279

(b) Instruct the superintendent to submit the completed 21280
report of the criminal records check required by this section 21281
directly to the chief administrator of the waiver agency. 21282

(3) Except as provided in rules authorized by this 21283
section, the applicant or employee is found by a criminal 21284
records check required by this section to have been convicted of 21285
or have pleaded guilty to a disqualifying offense, regardless of 21286
the date of the conviction or date of entry of the guilty plea. 21287

(D) At the time of each applicant's initial application 21288
for employment in a position that involves providing home and 21289
community-based services, the chief administrator of a waiver 21290
agency shall inform the applicant of both of the following: 21291

(1) That a review of the databases listed in division (E) 21292
of this section will be conducted to determine whether the 21293
waiver agency is prohibited by division (C) (1) of this section 21294

from employing the applicant in the position; 21295

(2) That, unless the database review reveals that the 21296
applicant may not be employed in the position, a criminal 21297
records check of the applicant will be conducted and the 21298
applicant is required to provide a set of the applicant's 21299
fingerprint impressions as part of the criminal records check. 21300

(E) As a condition of employing any applicant in a 21301
position that involves providing home and community-based 21302
services, the chief administrator of a waiver agency shall 21303
conduct a database review of the applicant in accordance with 21304
rules authorized by this section. If rules authorized by this 21305
section so require, the chief administrator of a waiver agency 21306
shall conduct a database review of an employee in accordance 21307
with the rules as a condition of continuing to employ the 21308
employee in a position that involves providing home and 21309
community-based services. A database review shall determine 21310
whether the applicant or employee is included in any of the 21311
following: 21312

(1) The excluded parties list system that is maintained by 21313
the United States general services administration pursuant to 21314
subpart 9.4 of the federal acquisition regulation and available 21315
at the federal web site known as the system for award 21316
management; 21317

(2) The list of excluded individuals and entities 21318
maintained by the office of inspector general in the United 21319
States department of health and human services pursuant to the 21320
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 21321
and 1320c-5; 21322

(3) The registry of ~~MR/DD~~-ID/DD employees established 21323

under section 5123.52 of the Revised Code; 21324

(4) The internet-based sex offender and child-victim 21325
offender database established under division (A)(11) of section 21326
2950.13 of the Revised Code; 21327

(5) The internet-based database of inmates established 21328
under section 5120.66 of the Revised Code; 21329

(6) The state nurse aide registry established under 21330
section 3721.32 of the Revised Code; 21331

(7) Any other database, if any, specified in rules 21332
authorized by this section. 21333

(F)(1) As a condition of employing any applicant in a 21334
position that involves providing home and community-based 21335
services, the chief administrator of a waiver agency shall 21336
require the applicant to request that the superintendent of the 21337
bureau of criminal identification and investigation conduct a 21338
criminal records check of the applicant. If rules authorized by 21339
this section so require, the chief administrator of a waiver 21340
agency shall require an employee to request that the 21341
superintendent conduct a criminal records check of the employee 21342
at times specified in the rules as a condition of continuing to 21343
employ the employee in a position that involves providing home 21344
and community-based services. However, a criminal records check 21345
is not required for an applicant or employee if the waiver 21346
agency is prohibited by division (C)(1) of this section from 21347
employing the applicant or continuing to employ the employee in 21348
a position that involves providing home and community-based 21349
services. If an applicant or employee for whom a criminal 21350
records check request is required by this section does not 21351
present proof of having been a resident of this state for the 21352

five-year period immediately prior to the date the criminal 21353
records check is requested or provide evidence that within that 21354
five-year period the superintendent has requested information 21355
about the applicant or employee from the federal bureau of 21356
investigation in a criminal records check, the chief 21357
administrator shall require the applicant or employee to request 21358
that the superintendent obtain information from the federal 21359
bureau of investigation as part of the criminal records check. 21360
Even if an applicant or employee for whom a criminal records 21361
check request is required by this section presents proof of 21362
having been a resident of this state for the five-year period, 21363
the chief administrator may require the applicant or employee to 21364
request that the superintendent include information from the 21365
federal bureau of investigation in the criminal records check. 21366

(2) The chief administrator shall provide the following to 21367
each applicant and employee for whom a criminal records check is 21368
required by this section: 21369

(a) Information about accessing, completing, and 21370
forwarding to the superintendent of the bureau of criminal 21371
identification and investigation the form prescribed pursuant to 21372
division (C) (1) of section 109.572 of the Revised Code and the 21373
standard impression sheet prescribed pursuant to division (C) (2) 21374
of that section; 21375

(b) Written notification that the applicant or employee is 21376
to instruct the superintendent to submit the completed report of 21377
the criminal records check directly to the chief administrator. 21378

(3) A waiver agency shall pay to the bureau of criminal 21379
identification and investigation the fee prescribed pursuant to 21380
division (C) (3) of section 109.572 of the Revised Code for any 21381
criminal records check required by this section. However, a 21382

waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(G) (1) A waiver agency may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The waiver agency is not prohibited by division (C) (1) of this section from employing the applicant in a position that involves providing home and community-based services.

(b) The chief administrator of the waiver agency requires the applicant to request a criminal records check regarding the applicant in accordance with division (F) (1) of this section not later than five business days after the applicant begins conditional employment.

(2) A waiver agency that employs an applicant conditionally under division (G) (1) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of or has pleaded guilty to a disqualifying offense, the waiver

agency shall terminate the applicant's employment unless 21413
circumstances specified in rules authorized by this section 21414
exist that permit the waiver agency to employ the applicant and 21415
the waiver agency chooses to employ the applicant. 21416

(H) The report of any criminal records check conducted 21417
pursuant to a request made under this section is not a public 21418
record for the purposes of section 149.43 of the Revised Code 21419
and shall not be made available to any person other than the 21420
following: 21421

(1) The applicant or employee who is the subject of the 21422
criminal records check or the representative of the applicant or 21423
employee; 21424

(2) The chief administrator of the waiver agency that 21425
requires the applicant or employee to request the criminal 21426
records check or the administrator's representative; 21427

(3) The medicaid director and the staff of the department 21428
who are involved in the administration of the medicaid program; 21429

(4) The director of aging or the director's designee if 21430
the waiver agency also is a community-based long-term care 21431
provider or community-based long-term care subcontractor; 21432

(5) An individual receiving or deciding whether to receive 21433
home and community-based services from the subject of the 21434
criminal records check; 21435

(6) A court, hearing officer, or other necessary 21436
individual involved in a case dealing with any of the following: 21437

(a) A denial of employment of the applicant or employee; 21438

(b) Employment or unemployment benefits of the applicant 21439
or employee; 21440

(c) A civil or criminal action regarding the medicaid program.	21441 21442
(I) The medicaid director shall adopt rules under section 5164.02 of the Revised Code to implement this section.	21443 21444
(1) The rules may do the following:	21445
(a) Require employees to undergo database reviews and criminal records checks under this section;	21446 21447
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	21448 21449 21450
(c) For the purpose of division (E) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.	21451 21452 21453
(2) The rules shall specify all of the following:	21454
(a) The procedures for conducting a database review under this section;	21455 21456
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	21457 21458 21459 21460
(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases;	21461 21462 21463 21464 21465
(d) The circumstances under which a waiver agency may employ an applicant or employee who is found by a criminal	21466 21467

records check required by this section to have been convicted of 21468
or have pleaded guilty to a disqualifying offense. 21469

(J) The amendments made by H.B. 487 of the 129th general 21470
assembly to this section do not preclude the department of 21471
medicaid from taking action against a person for failure to 21472
comply with former division (H) of this section as that division 21473
existed on the day preceding January 1, 2013. 21474

Sec. 5164.881. The medicaid director, in consultation with 21475
the director of developmental disabilities, may develop and 21476
implement within the medicaid program a system under which 21477
eligible individuals with chronic conditions, as defined in the 21478
"Social Security Act," section 1945 (h) (1), 42 U.S.C. 1396w-4(h) 21479
(1), who also have ~~mental retardation~~ intellectual or other 21480
developmental disabilities may receive health home services, as 21481
defined in the "Social Security Act," section 1945 (h) (4), 42 21482
U.S.C. 1396w-4(h) (4). Any such system shall focus on the needs 21483
of individuals and have as its goal improving services and 21484
outcomes under the medicaid program by improving integration of 21485
long-term care services and supportive services with primary and 21486
acute health care services. 21487

In developing any system under this section, the directors 21488
shall consult with representatives of county boards of 21489
developmental disabilities, the Ohio provider resource 21490
association, and the arc of Ohio. The directors may consult with 21491
any other individuals or entities that have an interest in the 21492
well being of individuals with developmental disabilities. 21493

Sec. 5165.01. As used in this chapter: 21494

(A) "Affiliated operator" means an operator affiliated 21495
with either of the following: 21496

(1) The exiting operator for whom the affiliated operator 21497
is to assume liability for the entire amount of the exiting 21498
operator's debt under the medicaid program or the portion of the 21499
debt that represents the franchise permit fee the exiting 21500
operator owes; 21501

(2) The entering operator involved in the change of 21502
operator with the exiting operator specified in division (A)(1) 21503
of this section. 21504

(B) "Allowable costs" are a nursing facility's costs that 21505
the department of medicaid determines are reasonable. Fines paid 21506
under sections 5165.60 to 5165.89 and section 5165.99 of the 21507
Revised Code are not allowable costs. 21508

(C) "Ancillary and support costs" means all reasonable 21509
costs incurred by a nursing facility other than direct care 21510
costs, tax costs, or capital costs. "Ancillary and support 21511
costs" includes, but is not limited to, costs of activities, 21512
social services, pharmacy consultants, habilitation supervisors, 21513
qualified ~~mental retardation~~ intellectual disability 21514
professionals, program directors, medical and habilitation 21515
records, program supplies, incontinence supplies, food, 21516
enterals, dietary supplies and personnel, laundry, housekeeping, 21517
security, administration, medical equipment, utilities, 21518
liability insurance, bookkeeping, purchasing department, human 21519
resources, communications, travel, dues, license fees, 21520
subscriptions, home office costs not otherwise allocated, legal 21521
services, accounting services, minor equipment, maintenance and 21522
repairs, help-wanted advertising, informational advertising, 21523
start-up costs, organizational expenses, other interest, 21524
property insurance, employee training and staff development, 21525
employee benefits, payroll taxes, and workers' compensation 21526

premiums or costs for self-insurance claims and related costs as 21527
specified in rules adopted under section 5165.02 of the Revised 21528
Code, for personnel listed in this division. "Ancillary and 21529
support costs" also means the cost of equipment, including 21530
vehicles, acquired by operating lease executed before December 21531
1, 1992, if the costs are reported as administrative and general 21532
costs on the nursing facility's cost report for the cost 21533
reporting period ending December 31, 1992. 21534

(D) (1) "Capital costs" means the actual expense incurred 21535
by a nursing facility for all of the following: 21536

(a) Depreciation and interest on any capital assets that 21537
cost five hundred dollars or more per item, including the 21538
following: 21539

(i) Buildings; 21540

(ii) Building improvements; 21541

(iii) Except as provided in division (C) of this section, 21542
equipment; 21543

(iv) Transportation equipment. 21544

(b) Amortization and interest on land improvements and 21545
leasehold improvements; 21546

(c) Amortization of financing costs; 21547

(d) Lease and rent of land, buildings, and equipment. 21548

(2) The costs of capital assets of less than five hundred 21549
dollars per item may be considered capital costs in accordance 21550
with a provider's practice. 21551

(E) "Capital lease" and "operating lease" shall be 21552
construed in accordance with generally accepted accounting 21553

principles. 21554

(F) "Case-mix score" means a measure determined under 21555
section 5165.192 of the Revised Code of the relative direct-care 21556
resources needed to provide care and habilitation to a nursing 21557
facility resident. 21558

(G) "Change of operator" means an entering operator 21559
becoming the operator of a nursing facility in the place of the 21560
exiting operator. 21561

(1) Actions that constitute a change of operator include 21562
the following: 21563

(a) A change in an exiting operator's form of legal 21564
organization, including the formation of a partnership or 21565
corporation from a sole proprietorship; 21566

(b) A transfer of all the exiting operator's ownership 21567
interest in the operation of the nursing facility to the 21568
entering operator, regardless of whether ownership of any or all 21569
of the real property or personal property associated with the 21570
nursing facility is also transferred; 21571

(c) A lease of the nursing facility to the entering 21572
operator or the exiting operator's termination of the exiting 21573
operator's lease; 21574

(d) If the exiting operator is a partnership, dissolution 21575
of the partnership; 21576

(e) If the exiting operator is a partnership, a change in 21577
composition of the partnership unless both of the following 21578
apply: 21579

(i) The change in composition does not cause the 21580
partnership's dissolution under state law. 21581

(ii) The partners agree that the change in composition does not constitute a change in operator.	21582 21583
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	21584 21585 21586 21587 21588
(2) The following, alone, do not constitute a change of operator:	21589 21590
(a) A contract for an entity to manage a nursing facility as the operator's agent, subject to the operator's approval of daily operating and management decisions;	21591 21592 21593
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility if an entering operator does not become the operator in place of an exiting operator;	21594 21595 21596 21597
(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.	21598 21599 21600 21601
(H) "Cost center" means the following:	21602
(1) Ancillary and support costs;	21603
(2) Capital costs;	21604
(3) Direct care costs;	21605
(4) Tax costs.	21606
(I) "Custom wheelchair" means a wheelchair to which both of the following apply:	21607 21608

(1) It has been measured, fitted, or adapted in consideration of either of the following:

(a) The body size or disability of the individual who is to use the wheelchair;

(b) The individual's period of need for, or intended use of, the wheelchair.

(2) It has customized features, modifications, or components, such as adaptive seating and positioning systems, that the supplier who assembled the wheelchair, or the manufacturer from which the wheelchair was ordered, added or made in accordance with the instructions of the physician of the individual who is to use the wheelchair.

(J) (1) "Date of licensure" means the following:

(a) In the case of a nursing facility that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, the date the nursing facility was originally so licensed;

(b) In the case of a nursing facility that was not required by law to be licensed as a nursing home when it originally began to be operated as a nursing home, the date it first began to be operated as a nursing home, regardless of the date the nursing facility was first licensed as a nursing home.

(2) If, after a nursing facility's original date of licensure, more nursing home beds are added to the nursing facility, the nursing facility has a different date of licensure for the additional beds. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the 21637
nursing facility that was constructed at the same time as the 21638
continuing beds already located in that part of the nursing 21639
facility; 21640

(b) The part of the nursing facility in which the 21641
additional beds are located was constructed as part of the 21642
nursing facility at a time when the nursing facility was not 21643
required by law to be licensed as a nursing home. 21644

(3) The definition of "date of licensure" in this section 21645
applies in determinations of nursing facilities' medicaid 21646
payment rates but does not apply in determinations of nursing 21647
facilities' franchise permit fees. 21648

(K) "Desk-reviewed" means that a nursing facility's costs 21649
as reported on a cost report submitted under section 5165.10 of 21650
the Revised Code have been subjected to a desk review under 21651
section 5165.108 of the Revised Code and preliminarily 21652
determined to be allowable costs. 21653

(L) "Direct care costs" means all of the following costs 21654
incurred by a nursing facility: 21655

(1) Costs for registered nurses, licensed practical 21656
nurses, and nurse aides employed by the nursing facility; 21657

(2) Costs for direct care staff, administrative nursing 21658
staff, medical directors, respiratory therapists, and except as 21659
provided in division (L) (8) of this section, other persons 21660
holding degrees qualifying them to provide therapy; 21661

(3) Costs of purchased nursing services; 21662

(4) Costs of quality assurance; 21663

(5) Costs of training and staff development, employee 21664

benefits, payroll taxes, and workers' compensation premiums or	21665
costs for self-insurance claims and related costs as specified	21666
in rules adopted under section 5165.02 of the Revised Code, for	21667
personnel listed in divisions (L)(1), (2), (4), and (8) of this	21668
section;	21669
(6) Costs of consulting and management fees related to	21670
direct care;	21671
(7) Allocated direct care home office costs;	21672
(8) Costs of habilitation staff (other than habilitation	21673
supervisors), medical supplies, emergency oxygen, over-the-	21674
counter pharmacy products, behavioral and mental health	21675
services, physical therapists, physical therapy assistants,	21676
occupational therapists, occupational therapy assistants, speech	21677
therapists, audiologists, habilitation supplies, and universal	21678
precautions supplies;	21679
(9) Until January 1, 2014, costs of oxygen, wheelchairs,	21680
and resident transportation;	21681
(10) Beginning January 1, 2014, costs of both of the	21682
following:	21683
(a) Emergency oxygen;	21684
(b) Wheelchairs other than the following:	21685
(i) Custom wheelchairs;	21686
(ii) Repairs to and replacements of custom wheelchairs and	21687
parts that are made in accordance with the instructions of the	21688
physician of the individual who uses the custom wheelchair.	21689
(11) Costs of other direct-care resources that are	21690
specified as direct care costs in rules adopted under section	21691

5165.02 of the Revised Code.	21692
(M) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.	21693 21694
(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.	21695 21696 21697
(O) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.	21698 21699 21700
(P) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.	21701 21702 21703
(Q) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid residents other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.	21704 21705 21706 21707 21708
(R) "Entering operator" means the person or government entity that will become the operator of a nursing facility when a change of operator occurs or following an involuntary termination.	21709 21710 21711 21712
(S) "Exiting operator" means any of the following:	21713
(1) An operator that will cease to be the operator of a nursing facility on the effective date of a change of operator;	21714 21715
(2) An operator that will cease to be the operator of a nursing facility on the effective date of a facility closure;	21716 21717
(3) An operator of a nursing facility that is undergoing	21718

or has undergone a voluntary withdrawal of participation; 21719

(4) An operator of a nursing facility that is undergoing 21720
or has undergone an involuntary termination. 21721

(T) (1) Subject to divisions (T) (2) and (3) of this 21722
section, "facility closure" means either of the following: 21723

(a) Discontinuance of the use of the building, or part of 21724
the building, that houses the facility as a nursing facility 21725
that results in the relocation of all of the nursing facility's 21726
residents; 21727

(b) Conversion of the building, or part of the building, 21728
that houses a nursing facility to a different use with any 21729
necessary license or other approval needed for that use being 21730
obtained and one or more of the nursing facility's residents 21731
remaining in the building, or part of the building, to receive 21732
services under the new use. 21733

(2) A facility closure occurs regardless of any of the 21734
following: 21735

(a) The operator completely or partially replacing the 21736
nursing facility by constructing a new nursing facility or 21737
transferring the nursing facility's license to another nursing 21738
facility; 21739

(b) The nursing facility's residents relocating to another 21740
of the operator's nursing facilities; 21741

(c) Any action the department of health takes regarding 21742
the nursing facility's medicaid certification that may result in 21743
the transfer of part of the nursing facility's survey findings 21744
to another of the operator's nursing facilities; 21745

(d) Any action the department of health takes regarding 21746

the nursing facility's license under Chapter 3721. of the Revised Code. 21747
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(3) A facility closure does not occur if all of the nursing facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs. 21749
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(U) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 21754
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(V) "Franchise permit fee" means the fee imposed by sections 5168.40 to 5168.56 of the Revised Code. 21756
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(W) "Inpatient days" means both of the following: 21758

(1) All days during which a resident, regardless of payment source, occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity; 21759
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(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code. 21762
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(X) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request. 21764
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(Y) "Low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data. 21768
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(Z) "Maintenance and repair expenses" means a nursing facility's 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 costs of ordinary repairs such as painting and wallpapering.

(AA) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds.

(BB) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity;

(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.

(CC) (1) "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.

(2) "New nursing facility" does not mean a nursing facility for which the entering operator seeks a provider agreement pursuant to section 5165.511 or 5165.512 or (pursuant to section 5165.515) section 5165.07 of the Revised Code.

(DD) "Nursing facility" has the same meaning as in the "Social Security Act," section 1919(a), 42 U.S.C. 1396r(a).

(EE) "Nursing facility services" has the same meaning as 21804
in the "Social Security Act," section 1905(f), 42 U.S.C. 21805
1396d(f). 21806

(FF) "Nursing home" has the same meaning as in section 21807
3721.01 of the Revised Code. 21808

(GG) "Operator" means the person or government entity 21809
responsible for the daily operating and management decisions for 21810
a nursing facility. 21811

(HH) (1) "Owner" means any person or government entity that 21812
has at least five per cent ownership or interest, either 21813
directly, indirectly, or in any combination, in any of the 21814
following regarding a nursing facility: 21815

(a) The land on which the nursing facility is located; 21816

(b) The structure in which the nursing facility is 21817
located; 21818

(c) Any mortgage, contract for deed, or other obligation 21819
secured in whole or in part by the land or structure on or in 21820
which the nursing facility is located; 21821

(d) Any lease or sublease of the land or structure on or 21822
in which the nursing facility is located. 21823

(2) "Owner" does not mean a holder of a debenture or bond 21824
related to the nursing facility and purchased at public issue or 21825
a regulated lender that has made a loan related to the nursing 21826
facility unless the holder or lender operates the nursing 21827
facility directly or through a subsidiary. 21828

(II) "Per diem" means a nursing facility's actual, 21829
allowable costs in a given cost center in a cost reporting 21830
period, divided by the nursing facility's inpatient days for 21831

that cost reporting period. 21832

(JJ) "Provider" means an operator with a provider agreement. 21833
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(KK) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of a nursing facility for the provision of nursing facility services under the medicaid program. 21835
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(LL) "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 nursing facility. 21840
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(MM) "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. 21844
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(NN) "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. 21851
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(1) An individual who is a relative of an owner is a related party. 21855
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(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 21857
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cent ownership or equity in both the provider and a supplier. 21861
Significant ownership or equity is presumed to exist when an 21862
individual or individuals possess ten per cent ownership or 21863
equity in both the provider and another organization from which 21864
the provider purchases or leases real property. 21865

(3) Control exists when an individual or organization has 21866
the power, directly or indirectly, to significantly influence or 21867
direct the actions or policies of an organization. 21868

(4) An individual or organization that supplies goods or 21869
services to a provider shall not be considered a related party 21870
if all of the following conditions are met: 21871

(a) The supplier is a separate bona fide organization. 21872

(b) A substantial part of the supplier's business activity 21873
of the type carried on with the provider is transacted with 21874
others than the provider and there is an open, competitive 21875
market for the types of goods or services the supplier 21876
furnishes. 21877

(c) The types of goods or services are commonly obtained 21878
by other nursing facilities from outside organizations and are 21879
not a basic element of patient care ordinarily furnished 21880
directly to patients by nursing facilities. 21881

(d) The charge to the provider is in line with the charge 21882
for the goods or services in the open market and no more than 21883
the charge made under comparable circumstances to others by the 21884
supplier. 21885

(00) "Relative of owner" means an individual who is 21886
related to an owner of a nursing facility by one of the 21887
following relationships: 21888

(1) Spouse;	21889
(2) Natural parent, child, or sibling;	21890
(3) Adopted parent, child, or sibling;	21891
(4) Stepparent, stepchild, stepbrother, or stepsister;	21892
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	21893 21894
(6) Grandparent or grandchild;	21895
(7) Foster caregiver, foster child, foster brother, or foster sister.	21896 21897
(PP) "Residents' rights advocate" has the same meaning as in section 3721.10 of the Revised Code.	21898 21899
(QQ) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).	21900 21901 21902
(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.	21903 21904
(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.	21905 21906 21907
(TT) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.	21908 21909
(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.	21910 21911
(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to	21912 21913 21914

provide service of the type provided by a nursing facility. 21915

Sec. 5166.20. (A) The department of medicaid may create 21916
the following: 21917

(1) One or more medicaid waiver components under which 21918
home and community-based services are provided to individuals 21919
with ~~mental retardation~~ intellectual or other developmental 21920
~~disability~~ disabilities as an alternative to placement in 21921
ICFs/IID; 21922

(2) One or more medicaid waiver components under which 21923
home and community-based services are provided in the form of 21924
any of the following: 21925

(a) Early intervention and supportive services for 21926
children under three years of age who have developmental delays 21927
or disabilities the department determines are significant; 21928

(b) Therapeutic services for children who have autism; 21929

(c) Specialized habilitative services for individuals who 21930
are eighteen years of age or older and have autism. 21931

(B) No medicaid waiver component created pursuant to 21932
division (A) (2) (b) or (c) of this section shall provide services 21933
that are available under another medicaid waiver component. No 21934
medicaid waiver component created pursuant to division (A) (2) (b) 21935
of this section shall provide services to an individual that the 21936
individual is eligible to receive through an individualized 21937
education program as defined in section 3323.01 of the Revised 21938
Code. 21939

(C) The director of developmental disabilities and 21940
director of health may request that the department of medicaid 21941
create one or more medicaid waiver components under this 21942

section. 21943

(D) Before creating a medicaid waiver component under this 21944
section, the department of medicaid shall seek, accept, and 21945
consider public comments. 21946

Sec. 5166.22. (A) Subject to division (B) of this section, 21947
when the department of developmental disabilities allocates 21948
enrollment numbers to a county board of developmental 21949
disabilities for home and community-based services specified in 21950
division (A) (1) of section 5166.20 of the Revised Code and 21951
provided under any of the medicaid waiver components that the 21952
department administers under section 5166.21 of the Revised 21953
Code, the department shall consider all of the following: 21954

(1) The number of individuals with ~~mental retardation-~~ 21955
intellectual or other developmental ~~disability-disabilities~~ who 21956
are on a waiting list the county board establishes under section 21957
5126.042 of the Revised Code for those services and are given 21958
priority on the waiting list; 21959

(2) The implementation component required by division (A) 21960
(3) of section 5126.054 of the Revised Code of the county 21961
board's plan approved under section 5123.046 of the Revised 21962
Code; 21963

(3) Anything else the department considers necessary to 21964
enable county boards to provide those services to individuals in 21965
accordance with the priority requirements for waiting lists 21966
established under section 5126.042 of the Revised Code for those 21967
services. 21968

(B) Division (A) of this section applies to home and 21969
community-based services provided under the medicaid waiver 21970
component known as the transitions developmental disabilities 21971

waiver only to the extent, if any, provided by the contract 21972
required by section 5166.21 of the Revised Code regarding the 21973
component. 21974

Sec. 5168.68. There is hereby created in the state 21975
treasury the home and community-based services for the ~~mentally-~~ 21976
~~retarded-intellectually~~ and developmentally disabled fund. All 21977
installment payments and penalties paid by an ICF/IID under 21978
sections 5168.63 and 5168.65 of the Revised Code shall be 21979
deposited into the fund. As soon as possible after the end of 21980
each quarter, the medicaid director shall certify to the 21981
director of budget and management the amount of money that is in 21982
the fund as of the last day of that quarter. On receipt of a 21983
certification, the director of budget and management shall 21984
transfer the amount so certified from the home and community- 21985
based services for the ~~mentally-retarded-intellectually~~ and 21986
developmentally disabled fund to the department of developmental 21987
disabilities operating and services fund created under section 21988
5168.69 of the Revised Code. 21989

Sec. 5301.22. As used in this section, "incompetent 21990
person" means a person who is so mentally impaired as a result 21991
of a mental or physical illness or disability, or ~~mental-~~ 21992
~~retardation~~ intellectual disability, or as a result of chronic 21993
substance abuse, that the person is incapable of taking proper 21994
care of the person's self or property or fails to provide for 21995
the person's family or other persons for whom the person is 21996
charged by law to provide. 21997

No agreement described in section 5301.21 of the Revised 21998
Code shall be executed by a minor or incompetent person, but it 21999
may be executed and delivered for record, on such a person's 22000
behalf, by the person's guardian. When executed, acknowledged, 22001

delivered for record, and recorded, such agreement shall be as 22002
effectual against such minor or incompetent person, as if the 22003
person had been under no disability, and had performed such acts 22004
personally. An owner, not under any of such disabilities, may 22005
perform all such acts by an attorney in fact. The power of such 22006
attorney must be in writing and first recorded in the county 22007
recorder's office. 22008

Sec. 5305.17. As used in this section and sections 5305.18 22009
to 5305.22 of the Revised Code, "incompetent person" means a 22010
person who is so mentally impaired as a result of a mental or 22011
physical illness or disability, or ~~mental~~ 22012
~~retardation~~intellectual disability, or as a result of chronic 22013
substance abuse, that the person is incapable of taking proper 22014
care of the person's self or property or fails to provide for 22015
the person's family or other persons for whom the person is 22016
charged by law to provide. 22017

The guardian of a surviving spouse who has been adjudged 22018
to be an incompetent person may appear and answer for such 22019
incompetent person in an action under section 5305.15 of the 22020
Revised Code, subject to the approval of the court in which it 22021
is pending. Such answer has the same effect as if such spouse 22022
answered personally. The guardian shall be liable to such 22023
spouse, or the heirs, for all damage or loss sustained by the 22024
guardian's fraud or collusion, notwithstanding the approval of 22025
the court. 22026

Sec. 5307.19. As used in this section and section 5307.20 22027
of the Revised Code, "incompetent person" means a person who is 22028
so mentally impaired as a result of a mental or physical illness 22029
or disability, or ~~mental retardation~~intellectual disability, or 22030
as a result of chronic substance abuse, that the person is 22031

incapable of taking proper care of the person's self or property 22032
or fails to provide for the person's family or other persons for 22033
whom the person is charged by law to provide. 22034

The guardian of a minor or incompetent person, on behalf 22035
of the guardian's ward, may perform any act, matter, or thing 22036
respecting the partition of an estate which such ward could do 22037
under sections 5307.01 to 5307.25 of the Revised Code, if the 22038
ward were of age and of sound mind. On behalf of such ward, the 22039
guardian may elect to take the estate, when it cannot be divided 22040
without injury, and make payments therefor on the ward's behalf. 22041

Sec. 5310.12. As used in this section, "incompetent 22042
person" means a person who is so mentally impaired as a result 22043
of a mental or physical illness or disability, or ~~mental~~ 22044
~~retardation~~ intellectual disability, or as a result of chronic 22045
substance abuse, that the person is incapable of taking proper 22046
care of the person's self or property or fails to provide for 22047
the person's family or other persons for whom the person is 22048
charged by law to provide. 22049

No action or proceeding for compensation from the 22050
assurance fund provided for in section 5310.05 of the Revised 22051
Code for, or by reason of, any deprivation, loss, or damage 22052
shall be made, brought or taken, except within a period of six 22053
years from the time when the right to bring such action or 22054
proceeding first accrued. If at the time when such right of 22055
action first accrues the person entitled to bring such action or 22056
take such proceedings is within the age of eighteen years, an 22057
incompetent person, imprisoned, or absent from the United States 22058
in the service of the United States or of this state, such 22059
person or anyone claiming from, by, or under the person, may 22060
bring the action at any time within two years after such 22061

disability is removed. 22062

Sec. 5321.01. As used in this chapter: 22063

(A) "Tenant" means a person entitled under a rental 22064
agreement to the use and occupancy of residential premises to 22065
the exclusion of others. 22066

(B) "Landlord" means the owner, lessor, or sublessor of 22067
residential premises, the agent of the owner, lessor, or 22068
sublessor, or any person authorized by the owner, lessor, or 22069
sublessor to manage the premises or to receive rent from a 22070
tenant under a rental agreement. 22071

(C) "Residential premises" means a dwelling unit for 22072
residential use and occupancy and the structure of which it is a 22073
part, the facilities and appurtenances in it, and the grounds, 22074
areas, and facilities for the use of tenants generally or the 22075
use of which is promised the tenant. "Residential premises" 22076
includes a dwelling unit that is owned or operated by a college 22077
or university. "Residential premises" does not include any of 22078
the following: 22079

(1) Prisons, jails, workhouses, and other places of 22080
incarceration or correction, including, but not limited to, 22081
halfway houses or residential arrangements that are used or 22082
occupied as a requirement of a community control sanction, a 22083
post-release control sanction, or parole; 22084

(2) Hospitals and similar institutions with the primary 22085
purpose of providing medical services, and homes licensed 22086
pursuant to Chapter 3721. of the Revised Code; 22087

(3) Tourist homes, hotels, motels, recreational vehicle 22088
parks, recreation camps, combined park-camps, temporary park- 22089
camps, and other similar facilities where circumstances indicate 22090

a transient occupancy;	22091
(4) Elementary and secondary boarding schools, where the cost of room and board is included as part of the cost of tuition;	22092 22093 22094
(5) Orphanages and similar institutions;	22095
(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants;	22096 22097 22098
(7) Dwelling units subject to sections 3733.41 to 3733.49 of the Revised Code;	22099 22100
(8) Occupancy by an owner of a condominium unit;	22101
(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:	22102 22103 22104 22105 22106 22107 22108
(a) The occupancy is for a period of less than sixty days.	22109
(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:	22110 22111 22112 22113
(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of mentally ill persons, developmentally-disabled persons with a developmental disability , adults or juveniles convicted of criminal offenses, or persons suffering	22114 22115 22116 22117 22118

from substance abuse; 22119

(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons. 22120
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(10) Emergency shelters operated by organizations exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, for persons whose circumstances indicate a transient occupancy, including homeless people, victims of domestic violence, and juvenile runaways. 22122
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(D) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties. 22128
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(E) "Security deposit" means any deposit of money or property to secure performance by the tenant under a rental agreement. 22132
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(F) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. 22135
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(G) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 22139
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(H) "Student tenant" means a person who occupies a dwelling unit owned or operated by the college or university at which the person is a student, and who has a rental agreement that is contingent upon the person's status as a student. 22141
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(I) "Recreational vehicle park," "recreation camp," "combined park-camp," and "temporary park-camp" have the same 22145
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meanings as in section 3729.01 of the Revised Code. 22147

(J) "Community control sanction" has the same meaning as 22148
in section 2929.01 of the Revised Code. 22149

(K) "Post-release control sanction" has the same meaning 22150
as in section 2967.01 of the Revised Code. 22151

(L) "School premises" has the same meaning as in section 22152
2925.01 of the Revised Code. 22153

(M) "Sexually oriented offense" and "child-victim oriented 22154
offense" have the same meanings as in section 2950.01 of the 22155
Revised Code. 22156

(N) "Preschool or child day-care center premises" has the 22157
~~the~~ same meaning as in section 2950.034 of the Revised Code. 22158

Sec. 5705.05. The purpose and intent of the general levy 22159
for current expenses is to provide one general operating fund 22160
derived from taxation from which any expenditures for current 22161
expenses of any kind may be made. The taxing authority of a 22162
political subdivision may include in such levy the amounts 22163
required for carrying into effect any of the general or special 22164
powers granted by law to such subdivision, including the 22165
acquisition or construction of permanent improvements and the 22166
payment of judgments, but excluding the payment of debt charges 22167
and, in the case of counties, the construction, reconstruction, 22168
resurfacing, or repair of roads and bridges. The power to 22169
include in the general levy for current expenses additional 22170
amounts for purposes for which a special tax is authorized shall 22171
not affect the right or obligation to levy such special tax. 22172
Without prejudice to the generality of the authority to levy a 22173
general tax for any current expense, such general levy shall 22174
include: 22175

(A) The amounts certified to be necessary for the payment	22176
of final judgments;	22177
(B) The amounts necessary for general, special, and	22178
primary elections;	22179
(C) The amounts necessary for boards and commissioners of	22180
health, and other special or district appropriating authorities	22181
deriving their revenue in whole or part from the subdivision;	22182
(D) In the case of municipal corporations, the amounts	22183
necessary for the maintenance, operation, and repair of public	22184
buildings, wharves, bridges, parks, and streets, for the	22185
prevention, control, and abatement of air pollution, and for a	22186
sanitary fund;	22187
(E) In the case of counties, the amounts necessary for the	22188
maintenance, operation, and repair of public buildings, for	22189
providing or maintaining senior citizens services or facilities,	22190
for the relief and support of the poor, for the relief of needy	22191
blind, for the support of mental health, mental retardation, or	22192
<u>intellectual or</u> developmental disability services, for the	22193
relief of honorably discharged soldiers, indigent soldiers,	22194
sailors, and marines, for the operation and maintenance and the	22195
acquisition, construction, or improvement of permanent	22196
improvements, including, without limitation, the acquisition and	22197
improvement of land and buildings owned or used by a county land	22198
reutilization corporation organized under Chapter 1724. of the	22199
Revised Code, for mothers' pension fund, support of soil and	22200
water conservation districts, watershed conservancy districts,	22201
and educational television, for the prevention, control, and	22202
abatement of air pollution, and for the county's share of the	22203
compensation paid judges;	22204

(F) In the case of a school district, the amounts 22205
necessary for tuition, the state teachers retirement system, and 22206
the maintenance, operation, and repair of schools; 22207

(G) In the case of a township, the amounts necessary for 22208
the relief of the poor and for the prevention, control, and 22209
abatement of air pollution. 22210

This section does not require the inclusion within the 22211
general levy of amounts for any purpose for which a special levy 22212
is authorized by section 5705.06 of the Revised Code. 22213

Sec. 5705.091. The board of county commissioners of each 22214
county shall establish a county developmental disabilities 22215
general fund. Notwithstanding section 5705.10 of the Revised 22216
Code, proceeds from levies under section 5705.222 and division 22217
(L) of section 5705.19 of the Revised Code shall be deposited to 22218
the credit of the county developmental disabilities general 22219
fund. Accounts shall be established within the county 22220
developmental disabilities general fund for each of the several 22221
particular purposes of the levies as specified in the 22222
resolutions under which the levies were approved, and proceeds 22223
from different levies that were approved for the same particular 22224
purpose shall be credited to accounts for that purpose. Other 22225
money received by the county for the purposes of Chapters 3323. 22226
and 5126. of the Revised Code and not required by state or 22227
federal law to be deposited to the credit of a different fund 22228
shall also be deposited to the credit of the county 22229
developmental disabilities general fund, in an account 22230
appropriate to the particular purpose for which the money was 22231
received. Unless otherwise provided by law, an unexpended 22232
balance at the end of a fiscal year in any account in the county 22233
developmental disabilities general fund shall be appropriated 22234

the next fiscal year to the same fund. 22235

A county board of developmental disabilities may request, 22236
by resolution, that the board of county commissioners establish 22237
a county developmental disabilities capital fund for money to be 22238
used for acquisition, construction, or improvement of capital 22239
facilities or acquisition of capital equipment used in providing 22240
services to ~~mentally retarded and developmentally disabled~~ 22241
persons with intellectual and developmental disabilities. The 22242
county board of developmental disabilities shall transmit a 22243
certified copy of the resolution to the board of county 22244
commissioners. Upon receiving the resolution, the board of 22245
county commissioners shall establish a county developmental 22246
disabilities capital fund. 22247

Sec. 5705.19. This section does not apply to school 22248
districts, county school financing districts, or lake facilities 22249
authorities. 22250

The taxing authority of any subdivision at any time and in 22251
any year, by vote of two-thirds of all the members of the taxing 22252
authority, may declare by resolution and certify the resolution 22253
to the board of elections not less than ninety days before the 22254
election upon which it will be voted that the amount of taxes 22255
that may be raised within the ten-mill limitation will be 22256
insufficient to provide for the necessary requirements of the 22257
subdivision and that it is necessary to levy a tax in excess of 22258
that limitation for any of the following purposes: 22259

(A) For current expenses of the subdivision, except that 22260
the total levy for current expenses of a detention facility 22261
district or district organized under section 2151.65 of the 22262
Revised Code shall not exceed two mills and that the total levy 22263
for current expenses of a combined district organized under 22264

sections 2151.65 and 2152.41 of the Revised Code shall not	22265
exceed four mills;	22266
(B) For the payment of debt charges on certain described	22267
bonds, notes, or certificates of indebtedness of the subdivision	22268
issued subsequent to January 1, 1925;	22269
(C) For the debt charges on all bonds, notes, and	22270
certificates of indebtedness issued and authorized to be issued	22271
prior to January 1, 1925;	22272
(D) For a public library of, or supported by, the	22273
subdivision under whatever law organized or authorized to be	22274
supported;	22275
(E) For a municipal university, not to exceed two mills	22276
over the limitation of one mill prescribed in section 3349.13 of	22277
the Revised Code;	22278
(F) For the construction or acquisition of any specific	22279
permanent improvement or class of improvements that the taxing	22280
authority of the subdivision may include in a single bond issue;	22281
(G) For the general construction, reconstruction,	22282
resurfacing, and repair of streets, roads, and bridges in	22283
municipal corporations, counties, or townships;	22284
(H) For parks and recreational purposes;	22285
(I) For the purpose of providing and maintaining fire	22286
apparatus, appliances, buildings, or sites therefor, or sources	22287
of water supply and materials therefor, or the establishment and	22288
maintenance of lines of fire alarm telegraph, or the payment of	22289
firefighting companies or permanent, part-time, or volunteer	22290
firefighting, emergency medical service, administrative, or	22291
communications personnel to operate the same, including the	22292

payment of any employer contributions required for such 22293
personnel under section 145.48 or 742.34 of the Revised Code, or 22294
the purchase of ambulance equipment, or the provision of 22295
ambulance, paramedic, or other emergency medical services 22296
operated by a fire department or firefighting company; 22297

(J) For the purpose of providing and maintaining motor 22298
vehicles, communications, other equipment, buildings, and sites 22299
for such buildings used directly in the operation of a police 22300
department, or the payment of salaries of permanent or part-time 22301
police, communications, or administrative personnel to operate 22302
the same, including the payment of any employer contributions 22303
required for such personnel under section 145.48 or 742.33 of 22304
the Revised Code, or the payment of the costs incurred by 22305
townships as a result of contracts made with other political 22306
subdivisions in order to obtain police protection, or the 22307
provision of ambulance or emergency medical services operated by 22308
a police department; 22309

(K) For the maintenance and operation of a county home or 22310
detention facility; 22311

(L) For community ~~mental retardation~~ intellectual and 22312
developmental disabilities programs and services pursuant to 22313
Chapter 5126. of the Revised Code, except that the procedure for 22314
such levies shall be as provided in section 5705.222 of the 22315
Revised Code; 22316

(M) For regional planning; 22317

(N) For a county's share of the cost of maintaining and 22318
operating schools, district detention facilities, forestry 22319
camps, or other facilities, or any combination thereof, 22320
established under section 2151.65 or 2152.41 of the Revised Code 22321

or both of those sections;	22322
(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;	22323 22324 22325
(P) For maintaining and operating sewage disposal plants and facilities;	22326 22327
(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;	22328 22329 22330 22331 22332 22333 22334
(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	22335 22336 22337 22338 22339
(S) For the prevention, control, and abatement of air pollution;	22340 22341
(T) For maintaining and operating cemeteries;	22342
(U) For providing ambulance service, emergency medical service, or both;	22343 22344
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	22345 22346
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	22347 22348 22349

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	22350 22351
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	22352 22353 22354 22355
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	22356 22357 22358
(AA) For the maintenance and operation of a free public museum of art, science, or history;	22359 22360
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 128.01 of the Revised Code;	22361 22362
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	22363 22364 22365 22366 22367 22368
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;	22369 22370 22371
(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code	22372 22373 22374 22375 22376 22377 22378

are found by the board of county commissioners to constitute the 22379
promotion of economic development, for the payment of such 22380
operations and expenses; 22381

(FF) For the purpose of acquiring, establishing, 22382
constructing, improving, equipping, maintaining, or operating, 22383
or any combination of the foregoing, a township airport, landing 22384
field, or other air navigation facility pursuant to section 22385
505.15 of the Revised Code; 22386

(GG) For the payment of costs incurred by a township as a 22387
result of a contract made with a county pursuant to section 22388
505.263 of the Revised Code in order to pay all or any part of 22389
the cost of constructing, maintaining, repairing, or operating a 22390
water supply improvement; 22391

(HH) For a board of township trustees to acquire, other 22392
than by appropriation, an ownership interest in land, water, or 22393
wetlands, or to restore or maintain land, water, or wetlands in 22394
which the board has an ownership interest, not for purposes of 22395
recreation, but for the purposes of protecting and preserving 22396
the natural, scenic, open, or wooded condition of the land, 22397
water, or wetlands against modification or encroachment 22398
resulting from occupation, development, or other use, which may 22399
be styled as protecting or preserving "greenspace" in the 22400
resolution, notice of election, or ballot form. Except as 22401
otherwise provided in this division, land is not acquired for 22402
purposes of recreation, even if the land is used for 22403
recreational purposes, so long as no building, structure, or 22404
fixture used for recreational purposes is permanently attached 22405
or affixed to the land. Except as otherwise provided in this 22406
division, land that previously has been acquired in a township 22407
for these greenspace purposes may subsequently be used for 22408

recreational purposes if the board of township trustees adopts a 22409
resolution approving that use and no building, structure, or 22410
fixture used for recreational purposes is permanently attached 22411
or affixed to the land. The authorization to use greenspace land 22412
for recreational use does not apply to land located in a 22413
township that had a population, at the time it passed its first 22414
greenspace levy, of more than thirty-eight thousand within a 22415
county that had a population, at that time, of at least eight 22416
hundred sixty thousand. 22417

(II) For the support by a county of a crime victim 22418
assistance program that is provided and maintained by a county 22419
agency or a private, nonprofit corporation or association under 22420
section 307.62 of the Revised Code; 22421

(JJ) For any or all of the purposes set forth in divisions 22422
(I) and (J) of this section. This division applies only to a 22423
township. 22424

(KK) For a countywide public safety communications system 22425
under section 307.63 of the Revised Code. This division applies 22426
only to counties. 22427

(LL) For the support by a county of criminal justice 22428
services under section 307.45 of the Revised Code; 22429

(MM) For the purpose of maintaining and operating a jail 22430
or other detention facility as defined in section 2921.01 of the 22431
Revised Code; 22432

(NN) For purchasing, maintaining, or improving, or any 22433
combination of the foregoing, real estate on which to hold, and 22434
the operating expenses of, agricultural fairs operated by a 22435
county agricultural society or independent agricultural society 22436
under Chapter 1711. of the Revised Code. This division applies 22437

only to a county.	22438
(OO) For constructing, rehabilitating, repairing, or	22439
maintaining sidewalks, walkways, trails, bicycle pathways, or	22440
similar improvements, or acquiring ownership interests in land	22441
necessary for the foregoing improvements;	22442
(PP) For both of the purposes set forth in divisions (G)	22443
and (OO) of this section.	22444
(QQ) For both of the purposes set forth in divisions (H)	22445
and (HH) of this section. This division applies only to a	22446
township.	22447
(RR) For the legislative authority of a municipal	22448
corporation, board of county commissioners of a county, or board	22449
of township trustees of a township to acquire agricultural	22450
easements, as defined in section 5301.67 of the Revised Code,	22451
and to supervise and enforce the easements.	22452
(SS) For both of the purposes set forth in divisions (BB)	22453
and (KK) of this section. This division applies only to a	22454
county.	22455
(TT) For the maintenance and operation of a facility that	22456
is organized in whole or in part to promote the sciences and	22457
natural history under section 307.761 of the Revised Code.	22458
(UU) For the creation and operation of a county land	22459
reutilization corporation and for any programs or activities of	22460
the corporation found by the board of directors of the	22461
corporation to be consistent with the purposes for which the	22462
corporation is organized;	22463
(VV) For construction and maintenance of improvements and	22464
expenses of soil and water conservation district programs under	22465

Chapter 1515. of the Revised Code;	22466
(WW) For the OSU extension fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.	22467 22468 22469 22470
(XX) For a municipal corporation that withdraws or proposes by resolution to withdraw from a regional transit authority under section 306.55 of the Revised Code to provide transportation services for the movement of persons within, from, or to the municipal corporation;	22471 22472 22473 22474 22475
(YY) For any combination of the purposes specified in divisions (NN), (VV), and (WW) of this section. This division applies only to a county.	22476 22477 22478
The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.	22479 22480 22481 22482 22483 22484 22485
The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:	22486 22487 22488 22489 22490 22491
(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.	22492 22493 22494

(2) When the additional rate is for any of the following, 22495
the increased rate shall be for a continuing period of time: 22496

(a) For the current expenses for a detention facility 22497
district, a district organized under section 2151.65 of the 22498
Revised Code, or a combined district organized under sections 22499
2151.65 and 2152.41 of the Revised Code; 22500

(b) For providing a county's share of the cost of 22501
maintaining and operating schools, district detention 22502
facilities, forestry camps, or other facilities, or any 22503
combination thereof, established under section 2151.65 or 22504
2152.41 of the Revised Code or under both of those sections. 22505

(3) When the additional rate is for either of the 22506
following, the increased rate may be for a continuing period of 22507
time: 22508

(a) For the purposes set forth in division (I), (J), (U), 22509
or (KK) of this section; 22510

(b) For the maintenance and operation of a joint 22511
recreation district. 22512

(4) When the increase is for the purpose or purposes set 22513
forth in division (D), (G), (H), (Z), (CC), or (PP) of this 22514
section, the tax levy may be for any specified number of years 22515
or for a continuing period of time, as set forth in the 22516
resolution. 22517

A levy for one of the purposes set forth in division (G), 22518
(I), (J), or (U) of this section may be reduced pursuant to 22519
section 5705.261 or 5705.31 of the Revised Code. A levy for one 22520
of the purposes set forth in division (G), (I), (J), or (U) of 22521
this section may also be terminated or permanently reduced by 22522
the taxing authority if it adopts a resolution stating that the 22523

continuance of the levy is unnecessary and the levy shall be 22524
terminated or that the millage is excessive and the levy shall 22525
be decreased by a designated amount. 22526

A resolution of a detention facility district, a district 22527
organized under section 2151.65 of the Revised Code, or a 22528
combined district organized under both sections 2151.65 and 22529
2152.41 of the Revised Code may include both current expenses 22530
and other purposes, provided that the resolution shall apportion 22531
the annual rate of levy between the current expenses and the 22532
other purpose or purposes. The apportionment need not be the 22533
same for each year of the levy, but the respective portions of 22534
the rate actually levied each year for the current expenses and 22535
the other purpose or purposes shall be limited by the 22536
apportionment. 22537

Whenever a board of county commissioners, acting either as 22538
the taxing authority of its county or as the taxing authority of 22539
a sewer district or subdistrict created under Chapter 6117. of 22540
the Revised Code, by resolution declares it necessary to levy a 22541
tax in excess of the ten-mill limitation for the purpose of 22542
constructing, improving, or extending sewage disposal plants or 22543
sewage systems, the tax may be in effect for any number of years 22544
not exceeding twenty, and the proceeds of the tax, 22545
notwithstanding the general provisions of this section, may be 22546
used to pay debt charges on any obligations issued and 22547
outstanding on behalf of the subdivision for the purposes 22548
enumerated in this paragraph, provided that any such obligations 22549
have been specifically described in the resolution. 22550

A resolution adopted by the legislative authority of a 22551
municipal corporation that is for the purpose in division (XX) 22552
of this section may be combined with the purpose provided in 22553

section 306.55 of the Revised Code, by vote of two-thirds of all 22554
members of the legislative authority. The legislative authority 22555
may certify the resolution to the board of elections as a 22556
combined question. The question appearing on the ballot shall be 22557
as provided in section 5705.252 of the Revised Code. 22558

The resolution shall go into immediate effect upon its 22559
passage, and no publication of the resolution is necessary other 22560
than that provided for in the notice of election. 22561

When the electors of a subdivision or, in the case of a 22562
qualifying library levy for the support of a library association 22563
or private corporation, the electors of the association library 22564
district, have approved a tax levy under this section, the 22565
taxing authority of the subdivision may anticipate a fraction of 22566
the proceeds of the levy and issue anticipation notes in 22567
accordance with section 5705.191 or 5705.193 of the Revised 22568
Code. 22569

Sec. 5705.222. (A) At any time the board of county 22570
commissioners of any county by a majority vote of the full 22571
membership may declare by resolution and certify to the board of 22572
elections of the county that the amount of taxes which may be 22573
raised within the ten-mill limitation by levies on the current 22574
tax duplicate will be insufficient to provide the necessary 22575
requirements of the county board of developmental disabilities 22576
established pursuant to Chapter 5126. of the Revised Code and 22577
that it is necessary to levy a tax in excess of such limitation 22578
for the operation of programs and services by county boards of 22579
developmental disabilities and for the acquisition, 22580
construction, renovation, financing, maintenance, and operation 22581
of ~~mental retardation~~ intellectual and developmental 22582
disabilities facilities. 22583

Such resolution shall conform to section 5705.19 of the Revised Code, except that the increased rate may be in effect for any number of years not exceeding ten or for a continuing period of time.

The resolution shall be certified and submitted in the manner provided in section 5705.25 of the Revised Code, except that it may be placed on the ballot in any election, and shall be certified to the board of elections not less than ninety days before the election at which it will be voted upon.

If the majority of the electors voting on a levy for the support of the programs and services of the county board of developmental disabilities vote in favor of the levy, the board of county commissioners may levy a tax within the county at the additional rate outside the ten-mill limitation during the specified or continuing period, for the purpose stated in the resolution. The county board of developmental disabilities, within its budget and with the approval of the board of county commissioners through annual appropriations, shall use the proceeds of a levy approved under this section solely for the purposes authorized by this section.

(B) When electors have approved a tax levy under this section, the county commissioners may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

(C) The county auditor, upon receipt of a resolution from the county board of developmental disabilities, shall establish a capital improvements account or a reserve balance account, or both, as specified in the resolution. The capital improvements account shall be a contingency account for the necessary

acquisition, replacement, renovation, or construction of 22614
facilities and movable and fixed equipment. Upon the request of 22615
the county board of developmental disabilities, moneys not 22616
needed to pay for current expenses may be appropriated to this 22617
account, in amounts such that this account does not exceed 22618
twenty-five per cent of the replacement value of all capital 22619
facilities and equipment currently used by the county board of 22620
developmental disabilities for ~~mental retardation~~ intellectual 22621
and developmental disabilities programs and services. Other 22622
moneys available for current capital expenses from federal, 22623
state, or local sources may also be appropriated to this 22624
account. 22625

The reserve balance account shall contain those moneys 22626
that are not needed to pay for current operating expenses and 22627
not deposited in the capital improvements account but that will 22628
be needed to pay for operating expenses in the future. Upon the 22629
request of a county board of developmental disabilities, the 22630
board of county commissioners may appropriate moneys to the 22631
reserve balance account. 22632

Sec. 5709.40. (A) As used in this section: 22633

(1) "Blighted area" and "impacted city" have the same 22634
meanings as in section 1728.01 of the Revised Code. 22635

(2) "Business day" means a day of the week excluding 22636
Saturday, Sunday, and a legal holiday as defined under section 22637
1.14 of the Revised Code. 22638

(3) "Housing renovation" means a project carried out for 22639
residential purposes. 22640

(4) "Improvement" means the increase in the assessed value 22641
of any real property that would first appear on the tax list and 22642

duplicate of real and public utility property after the 22643
effective date of an ordinance adopted under this section were 22644
it not for the exemption granted by that ordinance. 22645

(5) "Incentive district" means an area not more than three 22646
hundred acres in size enclosed by a continuous boundary in which 22647
a project is being, or will be, undertaken and having one or 22648
more of the following distress characteristics: 22649

(a) At least fifty-one per cent of the residents of the 22650
district have incomes of less than eighty per cent of the median 22651
income of residents of the political subdivision in which the 22652
district is located, as determined in the same manner specified 22653
under section 119(b) of the "Housing and Community Development 22654
Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 22655

(b) The average rate of unemployment in the district 22656
during the most recent twelve-month period for which data are 22657
available is equal to at least one hundred fifty per cent of the 22658
average rate of unemployment for this state for the same period. 22659

(c) At least twenty per cent of the people residing in the 22660
district live at or below the poverty level as defined in the 22661
federal Housing and Community Development Act of 1974, 42 U.S.C. 22662
5301, as amended, and regulations adopted pursuant to that act. 22663

(d) The district is a blighted area. 22664

(e) The district is in a situational distress area as 22665
designated by the director of development services under 22666
division (F) of section 122.23 of the Revised Code. 22667

(f) As certified by the engineer for the political 22668
subdivision, the public infrastructure serving the district is 22669
inadequate to meet the development needs of the district as 22670
evidenced by a written economic development plan or urban 22671

renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a

public purpose under this division only if the parcel is located 22702
in a blighted area of an impacted city. For this purpose, 22703
"parcel that is used or to be used for residential purposes" 22704
means a parcel that, as improved, is used or to be used for 22705
purposes that would cause the tax commissioner to classify the 22706
parcel as residential property in accordance with rules adopted 22707
by the commissioner under section 5713.041 of the Revised Code. 22708
Except with the approval under division (D) of this section of 22709
the board of education of each city, local, or exempted village 22710
school district within which the improvements are located, not 22711
more than seventy-five per cent of an improvement thus declared 22712
to be a public purpose may be exempted from real property 22713
taxation for a period of not more than ten years. The ordinance 22714
shall specify the percentage of the improvement to be exempted 22715
from taxation and the life of the exemption. 22716

An ordinance adopted or amended under this division shall 22717
designate the specific public infrastructure improvements made, 22718
to be made, or in the process of being made by the municipal 22719
corporation that directly benefit, or that once made will 22720
directly benefit, the parcels for which improvements are 22721
declared to be a public purpose. The service payments provided 22722
for in section 5709.42 of the Revised Code shall be used to 22723
finance the public infrastructure improvements designated in the 22724
ordinance, for the purpose described in division (D)(1) of this 22725
section or as provided in section 5709.43 of the Revised Code. 22726

(C) (1) The legislative authority of a municipal 22727
corporation may adopt an ordinance creating an incentive 22728
district and declaring improvements to parcels within the 22729
district to be a public purpose and, except as provided in 22730
division (F) of this section, exempt from taxation as provided 22731
in this section, but no legislative authority of a municipal 22732

corporation that has a population that exceeds twenty-five 22733
thousand, as shown by the most recent federal decennial census, 22734
shall adopt an ordinance that creates an incentive district if 22735
the sum of the taxable value of real property in the proposed 22736
district for the preceding tax year and the taxable value of all 22737
real property in the municipal corporation that would have been 22738
taxable in the preceding year were it not for the fact that the 22739
property was in an existing incentive district and therefore 22740
exempt from taxation exceeds twenty-five per cent of the taxable 22741
value of real property in the municipal corporation for the 22742
preceding tax year. The ordinance shall delineate the boundary 22743
of the district and specifically identify each parcel within the 22744
district. A district may not include any parcel that is or has 22745
been exempted from taxation under division (B) of this section 22746
or that is or has been within another district created under 22747
this division. An ordinance may create more than one such 22748
district, and more than one ordinance may be adopted under 22749
division (C) (1) of this section. 22750

(2) Not later than thirty days prior to adopting an 22751
ordinance under division (C) (1) of this section, if the 22752
municipal corporation intends to apply for exemptions from 22753
taxation under section 5709.911 of the Revised Code on behalf of 22754
owners of real property located within the proposed incentive 22755
district, the legislative authority of a municipal corporation 22756
shall conduct a public hearing on the proposed ordinance. Not 22757
later than thirty days prior to the public hearing, the 22758
legislative authority shall give notice of the public hearing 22759
and the proposed ordinance by first class mail to every real 22760
property owner whose property is located within the boundaries 22761
of the proposed incentive district that is the subject of the 22762
proposed ordinance. 22763

(3) (a) An ordinance adopted under division (C) (1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C) (3) (b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D) (1) or (E) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C) (1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C) (1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or

industrial purposes. Service payments may be used to finance or 22795
support loans, deferred loans, and grants to persons for the 22796
purpose of housing renovations within the district. The 22797
ordinance shall designate the parcels within the district that 22798
are eligible for housing renovation. The ordinance shall state 22799
separately the amounts or the percentages of the expected 22800
aggregate service payments that are designated for each public 22801
infrastructure improvement and for the general purpose of 22802
housing renovations. 22803

(4) Except with the approval of the board of education of 22804
each city, local, or exempted village school district within the 22805
territory of which the incentive district is or will be located, 22806
and subject to division (E) of this section, the life of an 22807
incentive district shall not exceed ten years, and the 22808
percentage of improvements to be exempted shall not exceed 22809
seventy-five per cent. With approval of the board of education, 22810
the life of a district may be not more than thirty years, and 22811
the percentage of improvements to be exempted may be not more 22812
than one hundred per cent. The approval of a board of education 22813
shall be obtained in the manner provided in division (D) of this 22814
section. 22815

(D) (1) If the ordinance declaring improvements to a parcel 22816
to be a public purpose or creating an incentive district 22817
specifies that payments in lieu of taxes provided for in section 22818
5709.42 of the Revised Code shall be paid to the city, local, or 22819
exempted village, and joint vocational school district in which 22820
the parcel or incentive district is located in the amount of the 22821
taxes that would have been payable to the school district if the 22822
improvements had not been exempted from taxation, the percentage 22823
of the improvement that may be exempted from taxation may exceed 22824
seventy-five per cent, and the exemption may be granted for up 22825

to thirty years, without the approval of the board of education 22826
as otherwise required under division (D) (2) of this section. 22827

(2) Improvements with respect to a parcel may be exempted 22828
from taxation under division (B) of this section, and 22829
improvements to parcels within an incentive district may be 22830
exempted from taxation under division (C) of this section, for 22831
up to ten years or, with the approval under this paragraph of 22832
the board of education of the city, local, or exempted village 22833
school district within which the parcel or district is located, 22834
for up to thirty years. The percentage of the improvement 22835
exempted from taxation may, with such approval, exceed seventy- 22836
five per cent, but shall not exceed one hundred per cent. Not 22837
later than forty-five business days prior to adopting an 22838
ordinance under this section declaring improvements to be a 22839
public purpose that is subject to approval by a board of 22840
education under this division, the legislative authority shall 22841
deliver to the board of education a notice stating its intent to 22842
adopt an ordinance making that declaration. The notice regarding 22843
improvements with respect to a parcel under division (B) of this 22844
section shall identify the parcels for which improvements are to 22845
be exempted from taxation, provide an estimate of the true value 22846
in money of the improvements, specify the period for which the 22847
improvements would be exempted from taxation and the percentage 22848
of the improvement that would be exempted, and indicate the date 22849
on which the legislative authority intends to adopt the 22850
ordinance. The notice regarding improvements to parcels within 22851
an incentive district under division (C) of this section shall 22852
delineate the boundaries of the district, specifically identify 22853
each parcel within the district, identify each anticipated 22854
improvement in the district, provide an estimate of the true 22855
value in money of each such improvement, specify the life of the 22856

district and the percentage of improvements that would be 22857
exempted, and indicate the date on which the legislative 22858
authority intends to adopt the ordinance. The board of 22859
education, by resolution adopted by a majority of the board, may 22860
approve the exemption for the period or for the exemption 22861
percentage specified in the notice; may disapprove the exemption 22862
for the number of years in excess of ten, may disapprove the 22863
exemption for the percentage of the improvement to be exempted 22864
in excess of seventy-five per cent, or both; or may approve the 22865
exemption on the condition that the legislative authority and 22866
the board negotiate an agreement providing for compensation to 22867
the school district equal in value to a percentage of the amount 22868
of taxes exempted in the eleventh and subsequent years of the 22869
exemption period or, in the case of exemption percentages in 22870
excess of seventy-five per cent, compensation equal in value to 22871
a percentage of the taxes that would be payable on the portion 22872
of the improvement in excess of seventy-five per cent were that 22873
portion to be subject to taxation, or other mutually agreeable 22874
compensation. If an agreement is negotiated between the 22875
legislative authority and the board to compensate the school 22876
district for all or part of the taxes exempted, including 22877
agreements for payments in lieu of taxes under section 5709.42 22878
of the Revised Code, the legislative authority shall compensate 22879
the joint vocational school district within which the parcel or 22880
district is located at the same rate and under the same terms 22881
received by the city, local, or exempted village school 22882
district. 22883

(3) The board of education shall certify its resolution to 22884
the legislative authority not later than fourteen days prior to 22885
the date the legislative authority intends to adopt the 22886
ordinance as indicated in the notice. If the board of education 22887

and the legislative authority negotiate a mutually acceptable 22888
compensation agreement, the ordinance may declare the 22889
improvements a public purpose for the number of years specified 22890
in the ordinance or, in the case of exemption percentages in 22891
excess of seventy-five per cent, for the exemption percentage 22892
specified in the ordinance. In either case, if the board and the 22893
legislative authority fail to negotiate a mutually acceptable 22894
compensation agreement, the ordinance may declare the 22895
improvements a public purpose for not more than ten years, and 22896
shall not exempt more than seventy-five per cent of the 22897
improvements from taxation. If the board fails to certify a 22898
resolution to the legislative authority within the time 22899
prescribed by this division, the legislative authority thereupon 22900
may adopt the ordinance and may declare the improvements a 22901
public purpose for up to thirty years, or, in the case of 22902
exemption percentages proposed in excess of seventy-five per 22903
cent, for the exemption percentage specified in the ordinance. 22904
The legislative authority may adopt the ordinance at any time 22905
after the board of education certifies its resolution approving 22906
the exemption to the legislative authority, or, if the board 22907
approves the exemption on the condition that a mutually 22908
acceptable compensation agreement be negotiated, at any time 22909
after the compensation agreement is agreed to by the board and 22910
the legislative authority. 22911

(4) If a board of education has adopted a resolution 22912
waiving its right to approve exemptions from taxation under this 22913
section and the resolution remains in effect, approval of 22914
exemptions by the board is not required under division (D) of 22915
this section. If a board of education has adopted a resolution 22916
allowing a legislative authority to deliver the notice required 22917
under division (D) of this section fewer than forty-five 22918

business days prior to the legislative authority's adoption of 22919
the ordinance, the legislative authority shall deliver the 22920
notice to the board not later than the number of days prior to 22921
such adoption as prescribed by the board in its resolution. If a 22922
board of education adopts a resolution waiving its right to 22923
approve agreements or shortening the notification period, the 22924
board shall certify a copy of the resolution to the legislative 22925
authority. If the board of education rescinds such a resolution, 22926
it shall certify notice of the rescission to the legislative 22927
authority. 22928

(5) If the legislative authority is not required by 22929
division (D) of this section to notify the board of education of 22930
the legislative authority's intent to declare improvements to be 22931
a public purpose, the legislative authority shall comply with 22932
the notice requirements imposed under section 5709.83 of the 22933
Revised Code, unless the board has adopted a resolution under 22934
that section waiving its right to receive such a notice. 22935

(E) (1) If a proposed ordinance under division (C) (1) of 22936
this section exempts improvements with respect to a parcel 22937
within an incentive district for more than ten years, or the 22938
percentage of the improvement exempted from taxation exceeds 22939
seventy-five per cent, not later than forty-five business days 22940
prior to adopting the ordinance the legislative authority of the 22941
municipal corporation shall deliver to the board of county 22942
commissioners of the county within which the incentive district 22943
will be located a notice that states its intent to adopt an 22944
ordinance creating an incentive district. The notice shall 22945
include a copy of the proposed ordinance, identify the parcels 22946
for which improvements are to be exempted from taxation, provide 22947
an estimate of the true value in money of the improvements, 22948
specify the period of time for which the improvements would be 22949

exempted from taxation, specify the percentage of the 22950
improvements that would be exempted from taxation, and indicate 22951
the date on which the legislative authority intends to adopt the 22952
ordinance. 22953

(2) The board of county commissioners, by resolution 22954
adopted by a majority of the board, may object to the exemption 22955
for the number of years in excess of ten, may object to the 22956
exemption for the percentage of the improvement to be exempted 22957
in excess of seventy-five per cent, or both. If the board of 22958
county commissioners objects, the board may negotiate a mutually 22959
acceptable compensation agreement with the legislative 22960
authority. In no case shall the compensation provided to the 22961
board exceed the property taxes forgone due to the exemption. If 22962
the board of county commissioners objects, and the board and 22963
legislative authority fail to negotiate a mutually acceptable 22964
compensation agreement, the ordinance adopted under division (C) 22965
(1) of this section shall provide to the board compensation in 22966
the eleventh and subsequent years of the exemption period equal 22967
in value to not more than fifty per cent of the taxes that would 22968
be payable to the county or, if the board's objection includes 22969
an objection to an exemption percentage in excess of seventy- 22970
five per cent, compensation equal in value to not more than 22971
fifty per cent of the taxes that would be payable to the county, 22972
on the portion of the improvement in excess of seventy-five per 22973
cent, were that portion to be subject to taxation. The board of 22974
county commissioners shall certify its resolution to the 22975
legislative authority not later than thirty days after receipt 22976
of the notice. 22977

(3) If the board of county commissioners does not object 22978
or fails to certify its resolution objecting to an exemption 22979
within thirty days after receipt of the notice, the legislative 22980

authority may adopt the ordinance, and no compensation shall be 22981
provided to the board of county commissioners. If the board 22982
timely certifies its resolution objecting to the ordinance, the 22983
legislative authority may adopt the ordinance at any time after 22984
a mutually acceptable compensation agreement is agreed to by the 22985
board and the legislative authority, or, if no compensation 22986
agreement is negotiated, at any time after the legislative 22987
authority agrees in the proposed ordinance to provide 22988
compensation to the board of fifty per cent of the taxes that 22989
would be payable to the county in the eleventh and subsequent 22990
years of the exemption period or on the portion of the 22991
improvement in excess of seventy-five per cent, were that 22992
portion to be subject to taxation. 22993

(F) Service payments in lieu of taxes that are 22994
attributable to any amount by which the effective tax rate of 22995
either a renewal levy with an increase or a replacement levy 22996
exceeds the effective tax rate of the levy renewed or replaced, 22997
or that are attributable to an additional levy, for a levy 22998
authorized by the voters for any of the following purposes on or 22999
after January 1, 2006, and which are provided pursuant to an 23000
ordinance creating an incentive district under division (C)(1) 23001
of this section that is adopted on or after January 1, 2006, 23002
shall be distributed to the appropriate taxing authority as 23003
required under division (C) of section 5709.42 of the Revised 23004
Code in an amount equal to the amount of taxes from that 23005
additional levy or from the increase in the effective tax rate 23006
of such renewal or replacement levy that would have been payable 23007
to that taxing authority from the following levies were it not 23008
for the exemption authorized under division (C) of this section: 23009

(1) A tax levied under division (L) of section 5705.19 or 23010
section 5705.191 of the Revised Code for community ~~mental~~ 23011

retardation-intellectual and developmental disabilities programs	23012
and services pursuant to Chapter 5126. of the Revised Code;	23013
(2) A tax levied under division (Y) of section 5705.19 of	23014
the Revised Code for providing or maintaining senior citizens	23015
services or facilities;	23016
(3) A tax levied under section 5705.22 of the Revised Code	23017
for county hospitals;	23018
(4) A tax levied by a joint-county district or by a county	23019
under section 5705.19, 5705.191, or 5705.221 of the Revised Code	23020
for alcohol, drug addiction, and mental health services or	23021
facilities;	23022
(5) A tax levied under section 5705.23 of the Revised Code	23023
for library purposes;	23024
(6) A tax levied under section 5705.24 of the Revised Code	23025
for the support of children services and the placement and care	23026
of children;	23027
(7) A tax levied under division (Z) of section 5705.19 of	23028
the Revised Code for the provision and maintenance of zoological	23029
park services and facilities under section 307.76 of the Revised	23030
Code;	23031
(8) A tax levied under section 511.27 or division (H) of	23032
section 5705.19 of the Revised Code for the support of township	23033
park districts;	23034
(9) A tax levied under division (A), (F), or (H) of	23035
section 5705.19 of the Revised Code for parks and recreational	23036
purposes of a joint recreation district organized pursuant to	23037
division (B) of section 755.14 of the Revised Code;	23038
(10) A tax levied under section 1545.20 or 1545.21 of the	23039

Revised Code for park district purposes; 23040

(11) A tax levied under section 5705.191 of the Revised 23041
Code for the purpose of making appropriations for public 23042
assistance; human or social services; public relief; public 23043
welfare; public health and hospitalization; and support of 23044
general hospitals; 23045

(12) A tax levied under section 3709.29 of the Revised 23046
Code for a general health district program. 23047

(G) An exemption from taxation granted under this section 23048
commences with the tax year specified in the ordinance so long 23049
as the year specified in the ordinance commences after the 23050
effective date of the ordinance. If the ordinance specifies a 23051
year commencing before the effective date of the resolution or 23052
specifies no year whatsoever, the exemption commences with the 23053
tax year in which an exempted improvement first appears on the 23054
tax list and duplicate of real and public utility property and 23055
that commences after the effective date of the ordinance. In 23056
lieu of stating a specific year, the ordinance may provide that 23057
the exemption commences in the tax year in which the value of an 23058
improvement exceeds a specified amount or in which the 23059
construction of one or more improvements is completed, provided 23060
that such tax year commences after the effective date of the 23061
ordinance. With respect to the exemption of improvements to 23062
parcels under division (B) of this section, the ordinance may 23063
allow for the exemption to commence in different tax years on a 23064
parcel-by-parcel basis, with a separate exemption term specified 23065
for each parcel. 23066

Except as otherwise provided in this division, the 23067
exemption ends on the date specified in the ordinance as the 23068
date the improvement ceases to be a public purpose or the 23069

incentive district expires, or ends on the date on which the 23070
public infrastructure improvements and housing renovations are 23071
paid in full from the municipal public improvement tax increment 23072
equivalent fund established under division (A) of section 23073
5709.43 of the Revised Code, whichever occurs first. The 23074
exemption of an improvement with respect to a parcel or within 23075
an incentive district may end on a later date, as specified in 23076
the ordinance, if the legislative authority and the board of 23077
education of the city, local, or exempted village school 23078
district within which the parcel or district is located have 23079
entered into a compensation agreement under section 5709.82 of 23080
the Revised Code with respect to the improvement, and the board 23081
of education has approved the term of the exemption under 23082
division (D)(2) of this section, but in no case shall the 23083
improvement be exempted from taxation for more than thirty 23084
years. Exemptions shall be claimed and allowed in the same 23085
manner as in the case of other real property exemptions. If an 23086
exemption status changes during a year, the procedure for the 23087
apportionment of the taxes for that year is the same as in the 23088
case of other changes in tax exemption status during the year. 23089

(H) Additional municipal financing of public 23090
infrastructure improvements and housing renovations may be 23091
provided by any methods that the municipal corporation may 23092
otherwise use for financing such improvements or renovations. If 23093
the municipal corporation issues bonds or notes to finance the 23094
public infrastructure improvements and housing renovations and 23095
pledges money from the municipal public improvement tax 23096
increment equivalent fund to pay the interest on and principal 23097
of the bonds or notes, the bonds or notes are not subject to 23098
Chapter 133. of the Revised Code. 23099

(I) The municipal corporation, not later than fifteen days 23100

after the adoption of an ordinance under this section, shall 23101
submit to the director of development services a copy of the 23102
ordinance. On or before the thirty-first day of March of each 23103
year, the municipal corporation shall submit a status report to 23104
the director of development services. The report shall indicate, 23105
in the manner prescribed by the director, the progress of the 23106
project during each year that an exemption remains in effect, 23107
including a summary of the receipts from service payments in 23108
lieu of taxes; expenditures of money from the funds created 23109
under section 5709.43 of the Revised Code; a description of the 23110
public infrastructure improvements and housing renovations 23111
financed with such expenditures; and a quantitative summary of 23112
changes in employment and private investment resulting from each 23113
project. 23114

(J) Nothing in this section shall be construed to prohibit 23115
a legislative authority from declaring to be a public purpose 23116
improvements with respect to more than one parcel. 23117

(K) If a parcel is located in a new community district in 23118
which the new community authority imposes a community 23119
development charge on the basis of rentals received from leases 23120
of real property as described in division (L) (2) of section 23121
349.01 of the Revised Code, the parcel may not be exempted from 23122
taxation under this section. 23123

Sec. 5709.73. (A) As used in this section and section 23124
5709.74 of the Revised Code: 23125

(1) "Business day" means a day of the week excluding 23126
Saturday, Sunday, and a legal holiday as defined in section 1.14 23127
of the Revised Code. 23128

(2) "Further improvements" or "improvements" means the 23129

increase in the assessed value of real property that would first 23130
appear on the tax list and duplicate of real and public utility 23131
property after the effective date of a resolution adopted under 23132
this section were it not for the exemption granted by that 23133
resolution. For purposes of division (B) of this section, 23134
"improvements" do not include any property used or to be used 23135
for residential purposes. For this purpose, "property that is 23136
used or to be used for residential purposes" means property 23137
that, as improved, is used or to be used for purposes that would 23138
cause the tax commissioner to classify the property as 23139
residential property in accordance with rules adopted by the 23140
commissioner under section 5713.041 of the Revised Code. 23141

(3) "Housing renovation" means a project carried out for 23142
residential purposes. 23143

(4) "Incentive district" has the same meaning as in 23144
section 5709.40 of the Revised Code, except that a blighted area 23145
is in the unincorporated area of a township. 23146

(5) "Project" and "public infrastructure improvement" have 23147
the same meanings as in section 5709.40 of the Revised Code. 23148

(B) A board of township trustees may, by unanimous vote, 23149
adopt a resolution that declares to be a public purpose any 23150
public infrastructure improvements made that are necessary for 23151
the development of certain parcels of land located in the 23152
unincorporated area of the township. Except with the approval 23153
under division (D) of this section of the board of education of 23154
each city, local, or exempted village school district within 23155
which the improvements are located, the resolution may exempt 23156
from real property taxation not more than seventy-five per cent 23157
of further improvements to a parcel of land that directly 23158
benefits from the public infrastructure improvements, for a 23159

period of not more than ten years. The resolution shall specify 23160
the percentage of the further improvements to be exempted and 23161
the life of the exemption. 23162

(C) (1) A board of township trustees may adopt, by 23163
unanimous vote, a resolution creating an incentive district and 23164
declaring improvements to parcels within the district to be a 23165
public purpose and, except as provided in division (F) of this 23166
section, exempt from taxation as provided in this section, but 23167
no board of township trustees of a township that has a 23168
population that exceeds twenty-five thousand, as shown by the 23169
most recent federal decennial census, shall adopt a resolution 23170
that creates an incentive district if the sum of the taxable 23171
value of real property in the proposed district for the 23172
preceding tax year and the taxable value of all real property in 23173
the township that would have been taxable in the preceding year 23174
were it not for the fact that the property was in an existing 23175
incentive district and therefore exempt from taxation exceeds 23176
twenty-five per cent of the taxable value of real property in 23177
the township for the preceding tax year. The district shall be 23178
located within the unincorporated area of the township and shall 23179
not include any territory that is included within a district 23180
created under division (B) of section 5709.78 of the Revised 23181
Code. The resolution shall delineate the boundary of the 23182
district and specifically identify each parcel within the 23183
district. A district may not include any parcel that is or has 23184
been exempted from taxation under division (B) of this section 23185
or that is or has been within another district created under 23186
this division. A resolution may create more than one district, 23187
and more than one resolution may be adopted under division (C) 23188
(1) of this section. 23189

(2) Not later than thirty days prior to adopting a 23190

resolution under division (C) (1) of this section, if the 23191
township intends to apply for exemptions from taxation under 23192
section 5709.911 of the Revised Code on behalf of owners of real 23193
property located within the proposed incentive district, the 23194
board shall conduct a public hearing on the proposed resolution. 23195
Not later than thirty days prior to the public hearing, the 23196
board shall give notice of the public hearing and the proposed 23197
resolution by first class mail to every real property owner 23198
whose property is located within the boundaries of the proposed 23199
incentive district that is the subject of the proposed 23200
resolution. 23201

(3) (a) A resolution adopted under division (C) (1) of this 23202
section shall specify the life of the incentive district and the 23203
percentage of the improvements to be exempted, shall designate 23204
the public infrastructure improvements made, to be made, or in 23205
the process of being made, that benefit or serve, or, once made, 23206
will benefit or serve parcels in the district. The resolution 23207
also shall identify one or more specific projects being, or to 23208
be, undertaken in the district that place additional demand on 23209
the public infrastructure improvements designated in the 23210
resolution. The project identified may, but need not be, the 23211
project under division (C) (3) (b) of this section that places 23212
real property in use for commercial or industrial purposes. 23213

A resolution adopted under division (C) (1) of this section 23214
on or after March 30, 2006, shall not designate police or fire 23215
equipment as public infrastructure improvements, and no service 23216
payment provided for in section 5709.74 of the Revised Code and 23217
received by the township under the resolution shall be used for 23218
police or fire equipment. 23219

(b) A resolution adopted under division (C) (1) of this 23220

section may authorize the use of service payments provided for 23221
in section 5709.74 of the Revised Code for the purpose of 23222
housing renovations within the incentive district, provided that 23223
the resolution also designates public infrastructure 23224
improvements that benefit or serve the district, and that a 23225
project within the district places real property in use for 23226
commercial or industrial purposes. Service payments may be used 23227
to finance or support loans, deferred loans, and grants to 23228
persons for the purpose of housing renovations within the 23229
district. The resolution shall designate the parcels within the 23230
district that are eligible for housing renovations. The 23231
resolution shall state separately the amount or the percentages 23232
of the expected aggregate service payments that are designated 23233
for each public infrastructure improvement and for the purpose 23234
of housing renovations. 23235

(4) Except with the approval of the board of education of 23236
each city, local, or exempted village school district within the 23237
territory of which the incentive district is or will be located, 23238
and subject to division (E) of this section, the life of an 23239
incentive district shall not exceed ten years, and the 23240
percentage of improvements to be exempted shall not exceed 23241
seventy-five per cent. With approval of the board of education, 23242
the life of a district may be not more than thirty years, and 23243
the percentage of improvements to be exempted may be not more 23244
than one hundred per cent. The approval of a board of education 23245
shall be obtained in the manner provided in division (D) of this 23246
section. 23247

(D) Improvements with respect to a parcel may be exempted 23248
from taxation under division (B) of this section, and 23249
improvements to parcels within an incentive district may be 23250
exempted from taxation under division (C) of this section, for 23251

up to ten years or, with the approval of the board of education 23252
of the city, local, or exempted village school district within 23253
which the parcel or district is located, for up to thirty years. 23254
The percentage of the improvements exempted from taxation may, 23255
with such approval, exceed seventy-five per cent, but shall not 23256
exceed one hundred per cent. Not later than forty-five business 23257
days prior to adopting a resolution under this section declaring 23258
improvements to be a public purpose that is subject to approval 23259
by a board of education under this division, the board of 23260
township trustees shall deliver to the board of education a 23261
notice stating its intent to adopt a resolution making that 23262
declaration. The notice regarding improvements with respect to a 23263
parcel under division (B) of this section shall identify the 23264
parcels for which improvements are to be exempted from taxation, 23265
provide an estimate of the true value in money of the 23266
improvements, specify the period for which the improvements 23267
would be exempted from taxation and the percentage of the 23268
improvements that would be exempted, and indicate the date on 23269
which the board of township trustees intends to adopt the 23270
resolution. The notice regarding improvements made under 23271
division (C) of this section to parcels within an incentive 23272
district shall delineate the boundaries of the district, 23273
specifically identify each parcel within the district, identify 23274
each anticipated improvement in the district, provide an 23275
estimate of the true value in money of each such improvement, 23276
specify the life of the district and the percentage of 23277
improvements that would be exempted, and indicate the date on 23278
which the board of township trustees intends to adopt the 23279
resolution. The board of education, by resolution adopted by a 23280
majority of the board, may approve the exemption for the period 23281
or for the exemption percentage specified in the notice; may 23282
disapprove the exemption for the number of years in excess of 23283

ten, may disapprove the exemption for the percentage of the 23284
improvements to be exempted in excess of seventy-five per cent, 23285
or both; or may approve the exemption on the condition that the 23286
board of township trustees and the board of education negotiate 23287
an agreement providing for compensation to the school district 23288
equal in value to a percentage of the amount of taxes exempted 23289
in the eleventh and subsequent years of the exemption period or, 23290
in the case of exemption percentages in excess of seventy-five 23291
per cent, compensation equal in value to a percentage of the 23292
taxes that would be payable on the portion of the improvements 23293
in excess of seventy-five per cent were that portion to be 23294
subject to taxation, or other mutually agreeable compensation. 23295

The board of education shall certify its resolution to the 23296
board of township trustees not later than fourteen days prior to 23297
the date the board of township trustees intends to adopt the 23298
resolution as indicated in the notice. If the board of education 23299
and the board of township trustees negotiate a mutually 23300
acceptable compensation agreement, the resolution may declare 23301
the improvements a public purpose for the number of years 23302
specified in the resolution or, in the case of exemption 23303
percentages in excess of seventy-five per cent, for the 23304
exemption percentage specified in the resolution. In either 23305
case, if the board of education and the board of township 23306
trustees fail to negotiate a mutually acceptable compensation 23307
agreement, the resolution may declare the improvements a public 23308
purpose for not more than ten years, and shall not exempt more 23309
than seventy-five per cent of the improvements from taxation. If 23310
the board of education fails to certify a resolution to the 23311
board of township trustees within the time prescribed by this 23312
section, the board of township trustees thereupon may adopt the 23313
resolution and may declare the improvements a public purpose for 23314

up to thirty years or, in the case of exemption percentages 23315
proposed in excess of seventy-five per cent, for the exemption 23316
percentage specified in the resolution. The board of township 23317
trustees may adopt the resolution at any time after the board of 23318
education certifies its resolution approving the exemption to 23319
the board of township trustees, or, if the board of education 23320
approves the exemption on the condition that a mutually 23321
acceptable compensation agreement be negotiated, at any time 23322
after the compensation agreement is agreed to by the board of 23323
education and the board of township trustees. If a mutually 23324
acceptable compensation agreement is negotiated between the 23325
board of township trustees and the board of education, including 23326
agreements for payments in lieu of taxes under section 5709.74 23327
of the Revised Code, the board of township trustees shall 23328
compensate the joint vocational school district within which the 23329
parcel or district is located at the same rate and under the 23330
same terms received by the city, local, or exempted village 23331
school district. 23332

If a board of education has adopted a resolution waiving 23333
its right to approve exemptions from taxation under this section 23334
and the resolution remains in effect, approval of such 23335
exemptions by the board of education is not required under 23336
division (D) of this section. If a board of education has 23337
adopted a resolution allowing a board of township trustees to 23338
deliver the notice required under division (D) of this section 23339
fewer than forty-five business days prior to adoption of the 23340
resolution by the board of township trustees, the board of 23341
township trustees shall deliver the notice to the board of 23342
education not later than the number of days prior to the 23343
adoption as prescribed by the board of education in its 23344
resolution. If a board of education adopts a resolution waiving 23345

its right to approve exemptions or shortening the notification 23346
period, the board of education shall certify a copy of the 23347
resolution to the board of township trustees. If the board of 23348
education rescinds the resolution, it shall certify notice of 23349
the rescission to the board of township trustees. 23350

If the board of township trustees is not required by 23351
division (D) of this section to notify the board of education of 23352
the board of township trustees' intent to declare improvements 23353
to be a public purpose, the board of township trustees shall 23354
comply with the notice requirements imposed under section 23355
5709.83 of the Revised Code before taking formal action to adopt 23356
the resolution making that declaration, unless the board of 23357
education has adopted a resolution under that section waiving 23358
its right to receive the notice. 23359

(E) (1) If a proposed resolution under division (C) (1) of 23360
this section exempts improvements with respect to a parcel 23361
within an incentive district for more than ten years, or the 23362
percentage of the improvement exempted from taxation exceeds 23363
seventy-five per cent, not later than forty-five business days 23364
prior to adopting the resolution the board of township trustees 23365
shall deliver to the board of county commissioners of the county 23366
within which the incentive district is or will be located a 23367
notice that states its intent to adopt a resolution creating an 23368
incentive district. The notice shall include a copy of the 23369
proposed resolution, identify the parcels for which improvements 23370
are to be exempted from taxation, provide an estimate of the 23371
true value in money of the improvements, specify the period of 23372
time for which the improvements would be exempted from taxation, 23373
specify the percentage of the improvements that would be 23374
exempted from taxation, and indicate the date on which the board 23375
of township trustees intends to adopt the resolution. 23376

(2) The board of county commissioners, by resolution 23377
adopted by a majority of the board, may object to the exemption 23378
for the number of years in excess of ten, may object to the 23379
exemption for the percentage of the improvement to be exempted 23380
in excess of seventy-five per cent, or both. If the board of 23381
county commissioners objects, the board may negotiate a mutually 23382
acceptable compensation agreement with the board of township 23383
trustees. In no case shall the compensation provided to the 23384
board of county commissioners exceed the property taxes foregone 23385
due to the exemption. If the board of county commissioners 23386
objects, and the board of county commissioners and board of 23387
township trustees fail to negotiate a mutually acceptable 23388
compensation agreement, the resolution adopted under division 23389
(C)(1) of this section shall provide to the board of county 23390
commissioners compensation in the eleventh and subsequent years 23391
of the exemption period equal in value to not more than fifty 23392
per cent of the taxes that would be payable to the county or, if 23393
the board of county commissioner's objection includes an 23394
objection to an exemption percentage in excess of seventy-five 23395
per cent, compensation equal in value to not more than fifty per 23396
cent of the taxes that would be payable to the county, on the 23397
portion of the improvement in excess of seventy-five per cent, 23398
were that portion to be subject to taxation. The board of county 23399
commissioners shall certify its resolution to the board of 23400
township trustees not later than thirty days after receipt of 23401
the notice. 23402

(3) If the board of county commissioners does not object 23403
or fails to certify its resolution objecting to an exemption 23404
within thirty days after receipt of the notice, the board of 23405
township trustees may adopt its resolution, and no compensation 23406
shall be provided to the board of county commissioners. If the 23407

board of county commissioners timely certifies its resolution 23408
objecting to the trustees' resolution, the board of township 23409
trustees may adopt its resolution at any time after a mutually 23410
acceptable compensation agreement is agreed to by the board of 23411
county commissioners and the board of township trustees, or, if 23412
no compensation agreement is negotiated, at any time after the 23413
board of township trustees agrees in the proposed resolution to 23414
provide compensation to the board of county commissioners of 23415
fifty per cent of the taxes that would be payable to the county 23416
in the eleventh and subsequent years of the exemption period or 23417
on the portion of the improvement in excess of seventy-five per 23418
cent, were that portion to be subject to taxation. 23419

(F) Service payments in lieu of taxes that are 23420
attributable to any amount by which the effective tax rate of 23421
either a renewal levy with an increase or a replacement levy 23422
exceeds the effective tax rate of the levy renewed or replaced, 23423
or that are attributable to an additional levy, for a levy 23424
authorized by the voters for any of the following purposes on or 23425
after January 1, 2006, and which are provided pursuant to a 23426
resolution creating an incentive district under division (C) (1) 23427
of this section that is adopted on or after January 1, 2006, 23428
shall be distributed to the appropriate taxing authority as 23429
required under division (C) of section 5709.74 of the Revised 23430
Code in an amount equal to the amount of taxes from that 23431
additional levy or from the increase in the effective tax rate 23432
of such renewal or replacement levy that would have been payable 23433
to that taxing authority from the following levies were it not 23434
for the exemption authorized under division (C) of this section: 23435

(1) A tax levied under division (L) of section 5705.19 or 23436
section 5705.191 of the Revised Code for community ~~mental-~~ 23437
~~retardation-intellectual~~ and developmental disabilities programs 23438

and services pursuant to Chapter 5126. of the Revised Code;	23439
(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;	23440 23441 23442
(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;	23443 23444
(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families;	23445 23446 23447 23448
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	23449 23450
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	23451 23452 23453
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	23454 23455 23456 23457
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	23458 23459 23460
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	23461 23462 23463 23464
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	23465 23466

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (B) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the

public infrastructure improvements and housing renovations are 23497
paid in full from the township public improvement tax increment 23498
equivalent fund established under section 5709.75 of the Revised 23499
Code, whichever occurs first. The exemption of an improvement 23500
with respect to a parcel or within an incentive district may end 23501
on a later date, as specified in the resolution, if the board of 23502
township trustees and the board of education of the city, local, 23503
or exempted village school district within which the parcel or 23504
district is located have entered into a compensation agreement 23505
under section 5709.82 of the Revised Code with respect to the 23506
improvement and the board of education has approved the term of 23507
the exemption under division (D) of this section, but in no case 23508
shall the improvement be exempted from taxation for more than 23509
thirty years. The board of township trustees may, by majority 23510
vote, adopt a resolution permitting the township to enter into 23511
such agreements as the board finds necessary or appropriate to 23512
provide for the construction or undertaking of public 23513
infrastructure improvements and housing renovations. Any 23514
exemption shall be claimed and allowed in the same or a similar 23515
manner as in the case of other real property exemptions. If an 23516
exemption status changes during a tax year, the procedure for 23517
the apportionment of the taxes for that year is the same as in 23518
the case of other changes in tax exemption status during the 23519
year. 23520

(H) The board of township trustees may issue the notes of 23521
the township to finance all costs pertaining to the construction 23522
or undertaking of public infrastructure improvements and housing 23523
renovations made pursuant to this section. The notes shall be 23524
signed by the board and attested by the signature of the 23525
township fiscal officer, shall bear interest not to exceed the 23526
rate provided in section 9.95 of the Revised Code, and are not 23527

subject to Chapter 133. of the Revised Code. The resolution 23528
authorizing the issuance of the notes shall pledge the funds of 23529
the township public improvement tax increment equivalent fund 23530
established pursuant to section 5709.75 of the Revised Code to 23531
pay the interest on and principal of the notes. The notes, which 23532
may contain a clause permitting prepayment at the option of the 23533
board, shall be offered for sale on the open market or given to 23534
the vendor or contractor if no sale is made. 23535

(I) The township, not later than fifteen days after the 23536
adoption of a resolution under this section, shall submit to the 23537
director of development services a copy of the resolution. On or 23538
before the thirty-first day of March of each year, the township 23539
shall submit a status report to the director of development 23540
services. The report shall indicate, in the manner prescribed by 23541
the director, the progress of the project during each year that 23542
the exemption remains in effect, including a summary of the 23543
receipts from service payments in lieu of taxes; expenditures of 23544
money from the fund created under section 5709.75 of the Revised 23545
Code; a description of the public infrastructure improvements 23546
and housing renovations financed with the expenditures; and a 23547
quantitative summary of changes in private investment resulting 23548
from each project. 23549

(J) Nothing in this section shall be construed to prohibit 23550
a board of township trustees from declaring to be a public 23551
purpose improvements with respect to more than one parcel. 23552

If a parcel is located in a new community district in 23553
which the new community authority imposes a community 23554
development charge on the basis of rentals received from leases 23555
of real property as described in division (L) (2) of section 23556
349.01 of the Revised Code, the parcel may not be exempted from 23557

taxation under this section. 23558

(K) A board of township trustees that adopted a resolution 23559
under this section prior to July 21, 1994, may amend that 23560
resolution to include any additional public infrastructure 23561
improvement. A board of township trustees that seeks by the 23562
amendment to utilize money from its township public improvement 23563
tax increment equivalent fund for land acquisition in aid of 23564
industry, commerce, distribution, or research, demolition on 23565
private property, or stormwater and flood remediation projects 23566
may do so provided that the board currently is a party to a 23567
hold-harmless agreement with the board of education of the city, 23568
local, or exempted village school district within the territory 23569
of which are located the parcels that are subject to an 23570
exemption. For the purposes of this division, a "hold-harmless 23571
agreement" means an agreement under which the board of township 23572
trustees agrees to compensate the school district for one 23573
hundred per cent of the tax revenue that the school district 23574
would have received from further improvements to parcels 23575
designated in the resolution were it not for the exemption 23576
granted by the resolution. 23577

Sec. 5709.78. (A) A board of county commissioners may, by 23578
resolution, declare improvements to certain parcels of real 23579
property located in the unincorporated territory of the county 23580
to be a public purpose. Except with the approval under division 23581
(C) of this section of the board of education of each city, 23582
local, or exempted village school district within which the 23583
improvements are located, not more than seventy-five per cent of 23584
an improvement thus declared to be a public purpose may be 23585
exempted from real property taxation, for a period of not more 23586
than ten years. The resolution shall specify the percentage of 23587
the improvement to be exempted and the life of the exemption. 23588

A resolution adopted under this division shall designate 23589
the specific public infrastructure improvements made, to be 23590
made, or in the process of being made by the county that 23591
directly benefit, or that once made will directly benefit, the 23592
parcels for which improvements are declared to be a public 23593
purpose. The service payments provided for in section 5709.79 of 23594
the Revised Code shall be used to finance the public 23595
infrastructure improvements designated in the resolution, or as 23596
provided in section 5709.80 of the Revised Code. 23597

(B) (1) A board of county commissioners may adopt a 23598
resolution creating an incentive district and declaring 23599
improvements to parcels within the district to be a public 23600
purpose and, except as provided in division (E) of this section, 23601
exempt from taxation as provided in this section, but no board 23602
of county commissioners of a county that has a population that 23603
exceeds twenty-five thousand, as shown by the most recent 23604
federal decennial census, shall adopt a resolution that creates 23605
an incentive district if the sum of the taxable value of real 23606
property in the proposed district for the preceding tax year and 23607
the taxable value of all real property in the county that would 23608
have been taxable in the preceding year were it not for the fact 23609
that the property was in an existing incentive district and 23610
therefore exempt from taxation exceeds twenty-five per cent of 23611
the taxable value of real property in the county for the 23612
preceding tax year. The district shall be located within the 23613
unincorporated territory of the county and shall not include any 23614
territory that is included within a district created under 23615
division (C) of section 5709.73 of the Revised Code. The 23616
resolution shall delineate the boundary of the district and 23617
specifically identify each parcel within the district. A 23618
district may not include any parcel that is or has been exempted 23619

from taxation under division (A) of this section or that is or 23620
has been within another district created under this division. A 23621
resolution may create more than one such district, and more than 23622
one resolution may be adopted under division (B)(1) of this 23623
section. 23624

(2) Not later than thirty days prior to adopting a 23625
resolution under division (B)(1) of this section, if the county 23626
intends to apply for exemptions from taxation under section 23627
5709.911 of the Revised Code on behalf of owners of real 23628
property located within the proposed incentive district, the 23629
board of county commissioners shall conduct a public hearing on 23630
the proposed resolution. Not later than thirty days prior to the 23631
public hearing, the board shall give notice of the public 23632
hearing and the proposed resolution by first class mail to every 23633
real property owner whose property is located within the 23634
boundaries of the proposed incentive district that is the 23635
subject of the proposed resolution. The board also shall provide 23636
the notice by first class mail to the clerk of each township in 23637
which the proposed incentive district will be located. 23638

(3) (a) A resolution adopted under division (B)(1) of this 23639
section shall specify the life of the incentive district and the 23640
percentage of the improvements to be exempted, shall designate 23641
the public infrastructure improvements made, to be made, or in 23642
the process of being made, that benefit or serve, or, once made, 23643
will benefit or serve parcels in the district. The resolution 23644
also shall identify one or more specific projects being, or to 23645
be, undertaken in the district that place additional demand on 23646
the public infrastructure improvements designated in the 23647
resolution. The project identified may, but need not be, the 23648
project under division (B)(3)(b) of this section that places 23649
real property in use for commercial or industrial purposes. 23650

A resolution adopted under division (B) (1) of this section 23651
on or after March 30, 2006, shall not designate police or fire 23652
equipment as public infrastructure improvements, and no service 23653
payment provided for in section 5709.79 of the Revised Code and 23654
received by the county under the resolution shall be used for 23655
police or fire equipment. 23656

(b) A resolution adopted under division (B) (1) of this 23657
section may authorize the use of service payments provided for 23658
in section 5709.79 of the Revised Code for the purpose of 23659
housing renovations within the incentive district, provided that 23660
the resolution also designates public infrastructure 23661
improvements that benefit or serve the district, and that a 23662
project within the district places real property in use for 23663
commercial or industrial purposes. Service payments may be used 23664
to finance or support loans, deferred loans, and grants to 23665
persons for the purpose of housing renovations within the 23666
district. The resolution shall designate the parcels within the 23667
district that are eligible for housing renovations. The 23668
resolution shall state separately the amount or the percentages 23669
of the expected aggregate service payments that are designated 23670
for each public infrastructure improvement and for the purpose 23671
of housing renovations. 23672

(4) Except with the approval of the board of education of 23673
each city, local, or exempted village school district within the 23674
territory of which the incentive district is or will be located, 23675
and subject to division (D) of this section, the life of an 23676
incentive district shall not exceed ten years, and the 23677
percentage of improvements to be exempted shall not exceed 23678
seventy-five per cent. With approval of the board of education, 23679
the life of a district may be not more than thirty years, and 23680
the percentage of improvements to be exempted may be not more 23681

than one hundred per cent. The approval of a board of education 23682
shall be obtained in the manner provided in division (C) of this 23683
section. 23684

(C) (1) Improvements with respect to a parcel may be 23685
exempted from taxation under division (A) of this section, and 23686
improvements to parcels within an incentive district may be 23687
exempted from taxation under division (B) of this section, for 23688
up to ten years or, with the approval of the board of education 23689
of each city, local, or exempted village school district within 23690
which the parcel or district is located, for up to thirty years. 23691
The percentage of the improvements exempted from taxation may, 23692
with such approval, exceed seventy-five per cent, but shall not 23693
exceed one hundred per cent. Not later than forty-five business 23694
days prior to adopting a resolution under this section declaring 23695
improvements to be a public purpose that is subject to the 23696
approval of a board of education under this division, the board 23697
of county commissioners shall deliver to the board of education 23698
a notice stating its intent to adopt a resolution making that 23699
declaration. The notice regarding improvements with respect to a 23700
parcel under division (A) of this section shall identify the 23701
parcels for which improvements are to be exempted from taxation, 23702
provide an estimate of the true value in money of the 23703
improvements, specify the period for which the improvements 23704
would be exempted from taxation and the percentage of the 23705
improvements that would be exempted, and indicate the date on 23706
which the board of county commissioners intends to adopt the 23707
resolution. The notice regarding improvements to parcels within 23708
an incentive district under division (B) of this section shall 23709
delineate the boundaries of the district, specifically identify 23710
each parcel within the district, identify each anticipated 23711
improvement in the district, provide an estimate of the true 23712

value in money of each such improvement, specify the life of the 23713
district and the percentage of improvements that would be 23714
exempted, and indicate the date on which the board of county 23715
commissioners intends to adopt the resolution. The board of 23716
education, by resolution adopted by a majority of the board, may 23717
approve the exemption for the period or for the exemption 23718
percentage specified in the notice; may disapprove the exemption 23719
for the number of years in excess of ten, may disapprove the 23720
exemption for the percentage of the improvements to be exempted 23721
in excess of seventy-five per cent, or both; or may approve the 23722
exemption on the condition that the board of county 23723
commissioners and the board of education negotiate an agreement 23724
providing for compensation to the school district equal in value 23725
to a percentage of the amount of taxes exempted in the eleventh 23726
and subsequent years of the exemption period or, in the case of 23727
exemption percentages in excess of seventy-five per cent, 23728
compensation equal in value to a percentage of the taxes that 23729
would be payable on the portion of the improvements in excess of 23730
seventy-five per cent were that portion to be subject to 23731
taxation, or other mutually agreeable compensation. 23732

(2) The board of education shall certify its resolution to 23733
the board of county commissioners not later than fourteen days 23734
prior to the date the board of county commissioners intends to 23735
adopt its resolution as indicated in the notice. If the board of 23736
education and the board of county commissioners negotiate a 23737
mutually acceptable compensation agreement, the resolution of 23738
the board of county commissioners may declare the improvements a 23739
public purpose for the number of years specified in that 23740
resolution or, in the case of exemption percentages in excess of 23741
seventy-five per cent, for the exemption percentage specified in 23742
the resolution. In either case, if the board of education and 23743

the board of county commissioners fail to negotiate a mutually 23744
acceptable compensation agreement, the resolution may declare 23745
the improvements a public purpose for not more than ten years, 23746
and shall not exempt more than seventy-five per cent of the 23747
improvements from taxation. If the board of education fails to 23748
certify a resolution to the board of county commissioners within 23749
the time prescribed by this section, the board of county 23750
commissioners thereupon may adopt the resolution and may declare 23751
the improvements a public purpose for up to thirty years or, in 23752
the case of exemption percentages proposed in excess of seventy- 23753
five per cent, for the exemption percentage specified in the 23754
resolution. The board of county commissioners may adopt the 23755
resolution at any time after the board of education certifies 23756
its resolution approving the exemption to the board of county 23757
commissioners, or, if the board of education approves the 23758
exemption on the condition that a mutually acceptable 23759
compensation agreement be negotiated, at any time after the 23760
compensation agreement is agreed to by the board of education 23761
and the board of county commissioners. If a mutually acceptable 23762
compensation agreement is negotiated between the board of county 23763
commissioners and the board of education, including agreements 23764
for payments in lieu of taxes under section 5709.79 of the 23765
Revised Code, the board of county commissioners shall compensate 23766
the joint vocational school district within which the parcel or 23767
district is located at the same rate and under the same terms 23768
received by the city, local, or exempted village school 23769
district. 23770

(3) If a board of education has adopted a resolution 23771
waiving its right to approve exemptions from taxation under this 23772
section and the resolution remains in effect, approval of such 23773
exemptions by the board of education is not required under 23774

division (C) of this section. If a board of education has 23775
adopted a resolution allowing a board of county commissioners to 23776
deliver the notice required under division (C) of this section 23777
fewer than forty-five business days prior to approval of the 23778
resolution by the board of county commissioners, the board of 23779
county commissioners shall deliver the notice to the board of 23780
education not later than the number of days prior to such 23781
approval as prescribed by the board of education in its 23782
resolution. If a board of education adopts a resolution waiving 23783
its right to approve exemptions or shortening the notification 23784
period, the board of education shall certify a copy of the 23785
resolution to the board of county commissioners. If the board of 23786
education rescinds such a resolution, it shall certify notice of 23787
the rescission to the board of county commissioners. 23788

(D) (1) If a proposed resolution under division (B) (1) of 23789
this section exempts improvements with respect to a parcel 23790
within an incentive district for more than ten years, or the 23791
percentage of the improvement exempted from taxation exceeds 23792
seventy-five per cent, not later than forty-five business days 23793
prior to adopting the resolution the board of county 23794
commissioners shall deliver to the board of township trustees of 23795
any township within which the incentive district is or will be 23796
located a notice that states its intent to adopt a resolution 23797
creating an incentive district. The notice shall include a copy 23798
of the proposed resolution, identify the parcels for which 23799
improvements are to be exempted from taxation, provide an 23800
estimate of the true value in money of the improvements, specify 23801
the period of time for which the improvements would be exempted 23802
from taxation, specify the percentage of the improvements that 23803
would be exempted from taxation, and indicate the date on which 23804
the board intends to adopt the resolution. 23805

(2) The board of township trustees, by resolution adopted 23806
by a majority of the board, may object to the exemption for the 23807
number of years in excess of ten, may object to the exemption 23808
for the percentage of the improvement to be exempted in excess 23809
of seventy-five per cent, or both. If the board of township 23810
trustees objects, the board of township trustees may negotiate a 23811
mutually acceptable compensation agreement with the board of 23812
county commissioners. In no case shall the compensation provided 23813
to the board of township trustees exceed the property taxes 23814
forgone due to the exemption. If the board of township trustees 23815
objects, and the board of township trustees and the board of 23816
county commissioners fail to negotiate a mutually acceptable 23817
compensation agreement, the resolution adopted under division 23818
(B)(1) of this section shall provide to the board of township 23819
trustees compensation in the eleventh and subsequent years of 23820
the exemption period equal in value to not more than fifty per 23821
cent of the taxes that would be payable to the township or, if 23822
the board of township trustee's objection includes an objection 23823
to an exemption percentage in excess of seventy-five per cent, 23824
compensation equal in value to not more than fifty per cent of 23825
the taxes that would be payable to the township on the portion 23826
of the improvement in excess of seventy-five per cent, were that 23827
portion to be subject to taxation. The board of township 23828
trustees shall certify its resolution to the board of county 23829
commissioners not later than thirty days after receipt of the 23830
notice. 23831

(3) If the board of township trustees does not object or 23832
fails to certify a resolution objecting to an exemption within 23833
thirty days after receipt of the notice, the board of county 23834
commissioners may adopt its resolution, and no compensation 23835
shall be provided to the board of township trustees. If the 23836

board of township trustees certifies its resolution objecting to 23837
the commissioners' resolution, the board of county commissioners 23838
may adopt its resolution at any time after a mutually acceptable 23839
compensation agreement is agreed to by the board of county 23840
commissioners and the board of township trustees. If the board 23841
of township trustees certifies a resolution objecting to the 23842
commissioners' resolution, the board of county commissioners may 23843
adopt its resolution at any time after a mutually acceptable 23844
compensation agreement is agreed to by the board of county 23845
commissioners and the board of township trustees, or, if no 23846
compensation agreement is negotiated, at any time after the 23847
board of county commissioners in the proposed resolution to 23848
provide compensation to the board of township trustees of fifty 23849
per cent of the taxes that would be payable to the township in 23850
the eleventh and subsequent years of the exemption period or on 23851
the portion of the improvement in excess of seventy-five per 23852
cent, were that portion to be subject to taxation. 23853

(E) Service payments in lieu of taxes that are 23854
attributable to any amount by which the effective tax rate of 23855
either a renewal levy with an increase or a replacement levy 23856
exceeds the effective tax rate of the levy renewed or replaced, 23857
or that are attributable to an additional levy, for a levy 23858
authorized by the voters for any of the following purposes on or 23859
after January 1, 2006, and which are provided pursuant to a 23860
resolution creating an incentive district under division (B)(1) 23861
of this section that is adopted on or after January 1, 2006, 23862
shall be distributed to the appropriate taxing authority as 23863
required under division (D) of section 5709.79 of the Revised 23864
Code in an amount equal to the amount of taxes from that 23865
additional levy or from the increase in the effective tax rate 23866
of such renewal or replacement levy that would have been payable 23867

to that taxing authority from the following levies were it not	23868
for the exemption authorized under division (B) of this section:	23869
(1) A tax levied under division (L) of section 5705.19 or	23870
section 5705.191 of the Revised Code for community mental-	23871
retardation <u>intellectual</u> and developmental disabilities programs	23872
and services pursuant to Chapter 5126. of the Revised Code;	23873
(2) A tax levied under division (Y) of section 5705.19 of	23874
the Revised Code for providing or maintaining senior citizens	23875
services or facilities;	23876
(3) A tax levied under section 5705.22 of the Revised Code	23877
for county hospitals;	23878
(4) A tax levied by a joint-county district or by a county	23879
under section 5705.19, 5705.191, or 5705.221 of the Revised Code	23880
for alcohol, drug addiction, and mental health services or	23881
facilities;	23882
(5) A tax levied under section 5705.23 of the Revised Code	23883
for library purposes;	23884
(6) A tax levied under section 5705.24 of the Revised Code	23885
for the support of children services and the placement and care	23886
of children;	23887
(7) A tax levied under division (Z) of section 5705.19 of	23888
the Revised Code for the provision and maintenance of zoological	23889
park services and facilities under section 307.76 of the Revised	23890
Code;	23891
(8) A tax levied under section 511.27 or division (H) of	23892
section 5705.19 of the Revised Code for the support of township	23893
park districts;	23894
(9) A tax levied under division (A), (F), or (H) of	23895

section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	23896 23897 23898
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	23899 23900
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;	23901 23902 23903 23904 23905
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	23906 23907
(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (A) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified	23908 23909 23910 23911 23912 23913 23914 23915 23916 23917 23918 23919 23920 23921 23922 23923 23924 23925

for each parcel. 23926

Except as otherwise provided in this division, the 23927
exemption ends on the date specified in the resolution as the 23928
date the improvement ceases to be a public purpose or the 23929
incentive district expires, or ends on the date on which the 23930
county can no longer require annual service payments in lieu of 23931
taxes under section 5709.79 of the Revised Code, whichever 23932
occurs first. The exemption of an improvement with respect to a 23933
parcel or within an incentive district may end on a later date, 23934
as specified in the resolution, if the board of commissioners 23935
and the board of education of the city, local, or exempted 23936
village school district within which the parcel or district is 23937
located have entered into a compensation agreement under section 23938
5709.82 of the Revised Code with respect to the improvement, and 23939
the board of education has approved the term of the exemption 23940
under division (C) (1) of this section, but in no case shall the 23941
improvement be exempted from taxation for more than thirty 23942
years. Exemptions shall be claimed and allowed in the same or a 23943
similar manner as in the case of other real property exemptions. 23944
If an exemption status changes during a tax year, the procedure 23945
for the apportionment of the taxes for that year is the same as 23946
in the case of other changes in tax exemption status during the 23947
year. 23948

(G) If the board of county commissioners is not required 23949
by this section to notify the board of education of the board of 23950
county commissioners' intent to declare improvements to be a 23951
public purpose, the board of county commissioners shall comply 23952
with the notice requirements imposed under section 5709.83 of 23953
the Revised Code before taking formal action to adopt the 23954
resolution making that declaration, unless the board of 23955
education has adopted a resolution under that section waiving 23956

its right to receive such a notice. 23957

(H) The county, not later than fifteen days after the 23958
adoption of a resolution under this section, shall submit to the 23959
director of development services a copy of the resolution. On or 23960
before the thirty-first day of March of each year, the county 23961
shall submit a status report to the director of development 23962
services. The report shall indicate, in the manner prescribed by 23963
the director, the progress of the project during each year that 23964
an exemption remains in effect, including a summary of the 23965
receipts from service payments in lieu of taxes; expenditures of 23966
money from the fund created under section 5709.80 of the Revised 23967
Code; a description of the public infrastructure improvements 23968
and housing renovations financed with such expenditures; and a 23969
quantitative summary of changes in employment and private 23970
investment resulting from each project. 23971

(I) Nothing in this section shall be construed to prohibit 23972
a board of county commissioners from declaring to be a public 23973
purpose improvements with respect to more than one parcel. 23974

(J) If a parcel is located in a new community district in 23975
which the new community authority imposes a community 23976
development charge on the basis of rentals received from leases 23977
of real property as described in division (L) (2) of section 23978
349.01 of the Revised Code, the parcel may not be exempted from 23979
taxation under this section. 23980

Sec. 5711.07. Personal property used in business shall be 23981
listed and assessed in the taxing district in which such 23982
business is carried on. If such business is carried on in more 23983
than one taxing district in the same county, the return shall 23984
set forth the amount of the property used therein which is 23985
situated in each taxing district in such county, and the value 23986

of all the personal property used in business shall be 23987
apportioned to and assessed in each of such taxing districts in 23988
proportion to the value of the personal property situated 23989
therein. Domestic animals not used in business shall be listed 23990
and assessed in the taxing district where kept. Ships, vessels, 23991
boats, and aircraft, and shares and interests therein, shall be 23992
listed and assessed in the taxing district in which the owner 23993
resides. All other taxable property shall be listed and assessed 23994
in the municipal corporation in which the owner resides, or, if 23995
the owner resides outside a municipal corporation, then in the 23996
county in which the owner resides except as provided in sections 23997
5711.01 to 5711.36 of the Revised Code. Whenever, under such 23998
sections, taxable property required by this section to be listed 23999
and assessed in the taxing district or county in which the owner 24000
resides is required to be listed by a fiduciary, such property 24001
shall be listed and assessed by such fiduciary in the taxing 24002
district or county in which such fiduciary resides, or, in the 24003
case of joint fiduciaries, in which either such fiduciary 24004
resides; but such property belonging to the estate of a deceased 24005
resident of this state shall be listed and assessed in the 24006
taxing district or county in which the deceased resident resided 24007
at the time of death, regardless of the residence of the 24008
deceased resident's executors, administrators, or personal 24009
representatives, and such property belonging to a ward, minor, 24010
incompetent person, or beneficiary of a trust residing in this 24011
state, title, custody, or possession of which is vested in a 24012
nonresident fiduciary, shall be listed and assessed in the 24013
taxing district or county in which such ward, minor, incompetent 24014
person, or beneficiary resides. 24015

As used in this section, "incompetent person" means a 24016
person who is so mentally impaired as a result of a mental or 24017

physical illness or disability, or ~~mental-~~ 24018
~~retardation~~intellectual disability, or as a result of chronic 24019
substance abuse, that the person is incapable of taking proper 24020
care of the person's self or property or fails to provide for 24021
the person's family or other persons for whom the person is 24022
charged by law to provide. 24023

Sec. 5747.03. (A) All money collected under this chapter 24024
arising from the taxes imposed by section 5747.02 or 5747.41 of 24025
the Revised Code shall be credited to the general revenue fund, 24026
except that the treasurer of state shall, at the beginning of 24027
each calendar quarter, credit to the Ohio political party fund, 24028
pursuant to section 3517.16 of the Revised Code, an amount equal 24029
to the total dollar value realized from the taxpayer exercise of 24030
the income tax checkoff option on tax forms processed during the 24031
preceding calendar quarter. 24032

(B) (1) Following the crediting of moneys pursuant to 24033
division (A) of this section, the remainder deposited in the 24034
general revenue fund shall be distributed pursuant to division 24035
(F) of section 321.24 and section 323.156 of the Revised Code; 24036
to make subsidy payments to institutions of higher education 24037
from appropriations to the Ohio board of regents; to support 24038
expenditures for programs and services for ~~the mentally ill,~~ 24039
~~mentally retarded, developmentally disabled, and elderly~~ 24040
individuals and individuals with mental illness or intellectual 24041
or developmental disabilities; for primary and secondary 24042
education; for medical assistance; and for any other purposes 24043
authorized by law, subject to the limitation that at least fifty 24044
per cent of the income tax collected by the state from the tax 24045
imposed by section 5747.02 of the Revised Code shall be returned 24046
pursuant to Section 9 of Article XII, Ohio Constitution. 24047

(2) To ensure that such constitutional requirement is 24048
satisfied the tax commissioner shall, on or before the thirtieth 24049
day of June of each year, from the best information available to 24050
the tax commissioner, determine and certify for each county to 24051
the director of budget and management the amount of taxes 24052
collected under this chapter from the tax imposed under section 24053
5747.02 of the Revised Code during the preceding calendar year 24054
that are required to be returned to the county by Section 9 of 24055
Article XII, Ohio Constitution. The director shall provide for 24056
payment from the general revenue fund to the county in the 24057
amount, if any, that the sum of the amount so certified for that 24058
county exceeds the sum of the following: 24059

(a) The sum of the payments from the general revenue fund 24060
for the preceding calendar year credited to the county's 24061
undivided income tax fund pursuant to division (F) of section 24062
321.24 and section 323.156 of the Revised Code or made directly 24063
from the general revenue fund to political subdivisions located 24064
in the county; 24065

(b) The sum of the amounts from the general revenue fund 24066
distributed in the county during the preceding calendar year for 24067
subsidy payments to institutions of higher education from 24068
appropriations to the Ohio board of regents; for programs and 24069
services for ~~mentally ill, mentally retarded, developmentally~~ 24070
~~disabled, and elderly persons~~ and persons with mental illness or 24071
intellectual or developmental disabilities; for primary and 24072
secondary education; and for medical assistance. 24073

(c) In the case of payments made by the director under 24074
this division in 2007, the total amount distributed to the 24075
county during the preceding calendar year from the local 24076
government fund and the local government revenue assistance 24077

fund, and, in the case of payments made by the director under 24078
this division in subsequent calendar years, the amount 24079
distributed to the county from the local government fund; 24080

(d) In the case of payments made by the director under 24081
this division, the total amount distributed to the county during 24082
the preceding calendar year from the public library fund. 24083

Payments under this division shall be credited to the 24084
county's undivided income tax fund, except that, notwithstanding 24085
section 5705.14 of the Revised Code, such payments may be 24086
transferred by the board of county commissioners to the county 24087
general fund by resolution adopted with the affirmative vote of 24088
two-thirds of the members thereof. 24089

(C) All payments received in each month from taxes imposed 24090
under Chapter 5748. of the Revised Code and any penalties or 24091
interest thereon shall be paid into the school district income 24092
tax fund, which is hereby created in the state treasury, except 24093
that an amount equal to the following portion of such payments 24094
shall be paid into the general school district income tax 24095
administrative fund, which is hereby created in the state 24096
treasury: 24097

(1) One and three-quarters of one per cent of those 24098
received in fiscal year 1996; 24099

(2) One and one-half per cent of those received in fiscal 24100
year 1997 and thereafter. 24101

Money in the school district income tax administrative 24102
fund shall be used by the tax commissioner to defray costs 24103
incurred in administering the school district's income tax, 24104
including the cost of providing employers with information 24105
regarding the rate of tax imposed by any school district. Any 24106

moneys remaining in the fund after such use shall be deposited 24107
in the school district income tax fund. 24108

All interest earned on moneys in the school district 24109
income tax fund shall be credited to the fund. 24110

(D) (1) (a) Within thirty days of the end of each calendar 24111
quarter ending on the last day of March, June, September, and 24112
December, the director of budget and management shall make a 24113
payment from the school district income tax fund to each school 24114
district for which school district income tax revenue was 24115
received during that quarter. The amount of the payment shall 24116
equal the balance in the school district's account at the end of 24117
that quarter. 24118

(b) After a school district ceases to levy an income tax, 24119
the director of budget and management shall adjust the payments 24120
under division (D) (1) (a) of this section to retain sufficient 24121
money in the school district's account to pay refunds. For the 24122
calendar quarters ending on the last day of March and December 24123
of the calendar year following the last calendar year the tax is 24124
levied, the director shall make the payments in the amount 24125
required under division (D) (1) (a) of this section. For the 24126
calendar quarter ending on the last day of June of the calendar 24127
year following the last calendar year the tax is levied, the 24128
director shall make a payment equal to nine-tenths of the 24129
balance in the account at the end of that quarter. For the 24130
calendar quarter ending on the last day of September of the 24131
calendar year following the last calendar year the tax is 24132
levied, the director shall make no payment. For the second and 24133
succeeding calendar years following the last calendar year the 24134
tax is levied, the director shall make one payment each year, 24135
within thirty days of the last day of June, in an amount equal 24136

to the balance in the district's account on the last day of 24137
June. 24138

(2) Moneys paid to a school district under this division 24139
shall be deposited in its school district income tax fund. All 24140
interest earned on moneys in the school district income tax fund 24141
shall be apportioned by the tax commissioner pro rata among the 24142
school districts in the proportions and at the times the 24143
districts are entitled to receive payments under this division. 24144

Sec. 5815.28. (A) As used in this section: 24145

(1) "Ascertainable standard" includes a standard in a 24146
trust instrument requiring the trustee to provide for the care, 24147
comfort, maintenance, welfare, education, or general well-being 24148
of the beneficiary. 24149

(2) "Disability" means any substantial, medically 24150
determinable impairment that can be expected to result in death 24151
or that has lasted or can be expected to last for a continuous 24152
period of at least twelve months, except that "disability" does 24153
not include an impairment that is the result of abuse of alcohol 24154
or drugs. 24155

(3) "Political subdivision" and "state" have the same 24156
meanings as in section 2744.01 of the Revised Code. 24157

(4) "Supplemental services" means services specified by 24158
rule of the department of mental health and addiction services 24159
under section 5119.10 of the Revised Code or the department of 24160
developmental disabilities under section 5123.04 of the Revised 24161
Code that are provided to an individual with a disability in 24162
addition to services the individual is eligible to receive under 24163
programs authorized by federal or state law. 24164

(B) Any person may create a trust under this section to 24165

provide funding for supplemental services for the benefit of 24166
another individual who meets either of the following conditions: 24167

(1) The individual has a physical or mental disability and 24168
is eligible to receive services through the department of 24169
developmental disabilities or a county board of developmental 24170
disabilities; 24171

(2) The individual has a mental disability and is eligible 24172
to receive services through the department of mental health and 24173
addiction services or a board of alcohol, drug addiction, and 24174
mental health services. 24175

The trust may confer discretion upon the trustee and may 24176
contain specific instructions or conditions governing the 24177
exercise of the discretion. 24178

(C) The general division of the court of common pleas and 24179
the probate court of the county in which the beneficiary of a 24180
trust authorized by division (B) of this section resides or is 24181
confined have concurrent original jurisdiction to hear and 24182
determine actions pertaining to the trust. In any action 24183
pertaining to the trust in a court of common pleas or probate 24184
court and in any appeal of the action, all of the following 24185
apply to the trial or appellate court: 24186

(1) The court shall render determinations consistent with 24187
the testator's or other settlor's intent in creating the trust, 24188
as evidenced by the terms of the trust instrument. 24189

(2) The court may order the trustee to exercise discretion 24190
that the trust instrument confers upon the trustee only if the 24191
instrument contains specific instructions or conditions 24192
governing the exercise of that discretion and the trustee has 24193
failed to comply with the instructions or conditions. In issuing 24194

an order pursuant to this division, the court shall require the trustee to exercise the trustee's discretion only in accordance with the instructions or conditions.

(3) The court may order the trustee to maintain the trust and distribute assets in accordance with rules adopted by the director of mental health and addiction services under section 5119.10 of the Revised Code or the director of developmental disabilities under section 5123.04 of the Revised Code if the trustee has failed to comply with such rules.

(D) To the extent permitted by federal law and subject to the provisions of division (C) (2) of this section pertaining to the enforcement of specific instructions or conditions governing a trustee's discretion, a trust authorized by division (B) of this section that confers discretion upon the trustee shall not be considered an asset or resource of the beneficiary, the beneficiary's estate, the settlor, or the settlor's estate and shall be exempt from the claims of creditors, political subdivisions, the state, other governmental entities, and other claimants against the beneficiary, the beneficiary's estate, the settlor, or the settlor's estate, including claims regarding the medicaid program or based on provisions of Chapters 5121. or 5123. of the Revised Code and claims sought to be satisfied by way of a civil action, subrogation, execution, garnishment, attachment, judicial sale, or other legal process, if all of the following apply:

(1) At the time the trust is created, the trust principal does not exceed the maximum amount determined under division (E) of this section;

(2) The trust instrument contains a statement of the settlor's intent, or otherwise clearly evidences the settlor's

intent, that the beneficiary does not have authority to compel 24225
the trustee under any circumstances to furnish the beneficiary 24226
with minimal or other maintenance or support, to make payments 24227
from the principal of the trust or from the income derived from 24228
the principal, or to convert any portion of the principal into 24229
cash, whether pursuant to an ascertainable standard specified in 24230
the instrument or otherwise; 24231

(3) The trust instrument provides that trust assets can be 24232
used only to provide supplemental services, as defined by rule 24233
of the director of mental health and addiction services under 24234
section 5119.10 of the Revised Code or the director of 24235
developmental disabilities under section 5123.04 of the Revised 24236
Code, to the beneficiary; 24237

(4) The trust is maintained and assets are distributed in 24238
accordance with rules adopted by the director of mental health 24239
and addiction services under section 5119.10 of the Revised Code 24240
or the director of developmental disabilities under section 24241
5123.04 of the Revised Code; 24242

(5) The trust instrument provides that on the death of the 24243
beneficiary, a portion of the remaining assets of the trust, 24244
which shall be not less than fifty per cent of such assets, will 24245
be deposited to the credit of the services fund for individuals 24246
with mental illness created by section 5119.51 of the Revised 24247
Code or the services fund for individuals with ~~mental-~~ 24248
~~retardation-intellectual~~ and developmental disabilities created 24249
by section 5123.40 of the Revised Code. 24250

(E) In 1994, the trust principal maximum amount for a 24251
trust created under this section shall be two hundred thousand 24252
dollars. The maximum amount for a trust created under this 24253
section prior to November 11, 1994, may be increased to two 24254

hundred thousand dollars. 24255

In 1995, the maximum amount for a trust created under this 24256
section shall be two hundred two thousand dollars. Each year 24257
thereafter, the maximum amount shall be the prior year's amount 24258
plus two thousand dollars. 24259

(F) This section does not limit or otherwise affect the 24260
creation, validity, interpretation, or effect of any trust that 24261
is not created under this section. 24262

(G) Once a trustee takes action on a trust created by a 24263
settlor under this section and disburses trust funds on behalf 24264
of the beneficiary of the trust, then the trust may not be 24265
terminated or otherwise revoked by a particular event or 24266
otherwise without payment into the services fund created 24267
pursuant to section 5119.51 or 5123.40 of the Revised Code of an 24268
amount that is equal to the disbursements made on behalf of the 24269
beneficiary for medical care by the state from the date the 24270
trust vests but that is not more than fifty per cent of the 24271
trust corpus. 24272

Sec. 5815.35. (A) (1) As used in this division, "fiduciary" 24273
means any person, association, or corporation, other than a 24274
trustee of a testamentary trust, an assignee or trustee for an 24275
insolvent debtor, or a guardian under Chapter 5905. of the 24276
Revised Code, that is appointed by and accountable to the 24277
probate court, and that is acting in a fiduciary capacity for 24278
another or charged with duties in relation to any property, 24279
interest, or estate for another's benefit. A fiduciary also 24280
includes an agency under contract with the department of 24281
developmental disabilities for the provision of protective 24282
service under sections 5123.55 to 5123.59 of the Revised Code, 24283
when appointed by and accountable to the probate court as a 24284

guardian or trustee for a ~~mentally retarded or developmentally~~ 24285
~~disabled person with an intellectual or developmental~~ 24286
disability. 24287

(2) A fiduciary who enters a contract as fiduciary on or 24288
after March 22, 1984, is not personally liable on that contract, 24289
unless the contract otherwise specifies, if the contract is 24290
within the fiduciary's authority and the fiduciary discloses 24291
that the contract is being entered into in a fiduciary capacity. 24292
In a contract, the words "fiduciary" or "as fiduciary" or other 24293
words that indicate one's fiduciary capacity following the name 24294
or signature of a fiduciary are sufficient disclosure for 24295
purposes of this division. 24296

(B) (1) As used in this division, "partnership" includes a 24297
partnership composed of only general partners and a partnership 24298
composed of general and limited partners. 24299

(2) Subject to division (D) of this section, an executor 24300
or administrator who acquires, in a fiduciary capacity, a 24301
general partnership interest upon the death of a general partner 24302
of a partnership is not personally liable for any debt, 24303
obligation, or liability of the partnership that arises from the 24304
executor's or administrator's actions, except as provided in 24305
this division, as a general partner, or for any debt, 24306
obligation, or liability of the partnership for which the 24307
executor or administrator otherwise would be personally liable 24308
because the executor or administrator holds the general 24309
partnership interest, if the executor or administrator discloses 24310
that the general partnership interest is held by the executor or 24311
administrator in a fiduciary capacity. This immunity does not 24312
apply if an executor or administrator causes loss or injury to a 24313
person who is not a partner in the partnership by a wrongful act 24314

or omission. This immunity is not available to an executor or 24315
administrator who holds a general partnership interest in a 24316
fiduciary capacity if the spouse or any lineal descendants of 24317
the executor or administrator, or the executor or administrator 24318
other than in a fiduciary capacity, holds any interest in the 24319
partnership. 24320

A partnership certificate that is filed pursuant to 24321
Chapter 1777. or another chapter of the Revised Code and that 24322
indicates that an executor or administrator holds a general 24323
partnership interest in a fiduciary capacity by the use 24324
following the name or signature of the executor or administrator 24325
of the words "executor under the will of (name of decedent)" or 24326
"administrator of the estate of (name of decedent)" or other 24327
words that indicate the executor's or administrator's fiduciary 24328
capacity constitutes a sufficient disclosure for purposes of 24329
this division. 24330

If a partnership certificate is not required to be filed 24331
pursuant to Chapter 1776. or 1777. or another chapter of the 24332
Revised Code, a sufficient disclosure for purposes of this 24333
division can be made by an executor or administrator if a 24334
certificate that satisfies the following requirements is filed 24335
with the recorder of the county in which the partnership's 24336
principal office or place of business is situated and with the 24337
recorder of each county in which the partnership owns real 24338
estate: 24339

(a) The certificate shall state in full the names of all 24340
persons holding interests in the partnership and their places of 24341
residence; 24342

(b) The certificate shall be signed by all persons who are 24343
general partners in the partnership, and shall be acknowledged 24344

by a person authorized to take acknowledgements of deeds; 24345

(c) The certificate shall use the words "executor under 24346
the will of (name of decedent)" or "administrator of the estate 24347
of (name of decedent)" or other words that indicate the 24348
executor's or administrator's fiduciary capacity, following the 24349
name or signature of the executor or administrator. 24350

A contract or other written instrument delivered to a 24351
party that contracts with the partnership in which an executor 24352
or administrator holds a general partnership interest in a 24353
fiduciary capacity, that indicates that the executor or 24354
administrator so holds the interest, constitutes a disclosure 24355
for purposes of this division with respect to transactions 24356
between the party and the partnership. If a disclosure has been 24357
made by a certificate in accordance with this division, a 24358
disclosure for purposes of this division with respect to such 24359
transactions exists regardless of whether a contract or other 24360
instrument indicates the executor or administrator holds the 24361
general partnership interest in a fiduciary capacity. 24362

If an executor or administrator acquires, in a fiduciary 24363
capacity, a general partnership interest, the decedent's estate 24364
is liable for debts, obligations, or liabilities of the 24365
partnership. 24366

(C) An estate that includes a general partnership interest 24367
is not liable for the debts, obligations, or liabilities of a 24368
partnership in which another estate has a general partnership 24369
interest, merely because the executor or administrator of the 24370
estates holds a general partnership interest in both of the 24371
partnerships in the executor's or administrator's fiduciary 24372
capacities. 24373

(D) Divisions (B) and (C) of this section apply to general partnership interests held by executors or administrators in their fiduciary capacities prior to and on or after March 22, 1984. If an appropriate disclosure is made pursuant to division (B) of this section, the immunity acquired under that division extends only to debts, obligations, and liabilities of the partnership arising on and after the date of the disclosure and to debts, obligations, and liabilities of the partnership that arose prior to the acquisition of the general partnership interest by the executor or administrator becoming a general partner.

(E) The liability limitations in this section apply to fiduciaries as partners notwithstanding the broader personal liabilities otherwise imposed by any partnership law.

(F) If an estate or other fund held by a fiduciary is identified as a partner, the reference is deemed to be to, and the partner is, the current executor, administrator, or other fiduciary of the estate or other fund and their successors as executors, administrators, or other fiduciaries.

Section 2. That existing sections 1.02, 121.22, 121.37, 135.801, 145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 152.09, 154.02, 154.07, 154.20, 173.25, 173.27, 173.38, 173.381, 305.07, 307.02, 313.12, 325.07, 711.23, 1751.01, 1751.14, 2101.17, 2101.24, 2108.521, 2109.01, 2111.01, 2111.10, 2111.49, 2151.011, 2151.281, 2151.353, 2151.414, 2151.415, 2151.421, 2151.425, 2151.651, 2152.02, 2152.12, 2152.14, 2152.51, 2152.811, 2305.111, 2311.14, 2317.021, 2503.37, 2721.05, 2744.01, 2901.13, 2903.341, 2905.32, 2907.24, 2919.23, 2929.01, 2929.04, 2929.06, 2930.061, 2930.16, 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2945.482, 2945.491, 2949.29,

2950.01, 2951.041, 2967.22, 3107.02, 3323.01, 3701.881, 3707.20, 24404
3721.01, 3763.06, 3791.031, 3923.24, 3923.241, 4112.01, 24405
4303.272, 4399.05, 4723.071, 4757.41, 4971.16, 5101.46, 24406
5101.611, 5103.02, 5119.44, 5120.051, 5120.11, 5120.17, 24407
5120.173, 5121.04, 5122.01, 5123.01, 5123.012, 5123.02, 24408
5123.021, 5123.03, 5123.033, 5123.04, 5123.044, 5123.0410, 24409
5123.0413, 5123.0418, 5123.081, 5123.092, 5123.093, 5123.122, 24410
5123.165, 5123.169, 5123.17, 5123.171, 5123.18, 5123.19, 24411
5123.196, 5123.20, 5123.27, 5123.34, 5123.35, 5123.351, 5123.36, 24412
5123.37, 5123.374, 5123.375, 5123.40, 5123.41, 5123.42, 24413
5123.421, 5123.422, 5123.43, 5123.44, 5123.441, 5123.45, 24414
5123.451, 5123.47, 5123.50, 5123.51, 5123.52, 5123.541, 24415
5123.542, 5123.55, 5123.57, 5123.58, 5123.601, 5123.61, 24416
5123.611, 5123.612, 5123.614, 5123.62, 5123.63, 5123.64, 24417
5123.65, 5123.651, 5123.67, 5123.69, 5123.701, 5123.71, 5123.74, 24418
5123.75, 5123.76, 5123.79, 5123.80, 5123.81, 5123.82, 5123.83, 24419
5123.84, 5123.85, 5123.86, 5123.87, 5123.88, 5123.89, 5123.91, 24420
5123.92, 5123.93, 5123.95, 5123.96, 5123.99, 5126.01, 5126.022, 24421
5126.023, 5126.04, 5126.041, 5126.042, 5126.043, 5126.046, 24422
5126.05, 5126.051, 5126.054, 5126.055, 5126.058, 5126.059, 24423
5126.0510, 5126.08, 5126.082, 5126.11, 5126.15, 5126.22, 24424
5126.25, 5126.30, 5126.31, 5126.33, 5126.333, 5126.40, 5126.46, 24425
5126.49, 5126.52, 5126.55, 5126.58, 5139.06, 5139.08, 5139.12, 24426
5139.27, 5139.39, 5139.54, 5164.25, 5164.342, 5164.881, 5165.01, 24427
5166.20, 5166.22, 5168.68, 5301.22, 5305.17, 5307.19, 5310.12, 24428
5321.01, 5705.05, 5705.091, 5705.19, 5705.222, 5709.40, 5709.73, 24429
5709.78, 5711.07, 5747.03, 5815.28, and 5815.35 of the Revised 24430
Code are hereby repealed. 24431

Section 3. The General Assembly, applying the principle 24432
stated in division (B) of section 1.52 of the Revised Code that 24433
amendments are to be harmonized if reasonably capable of 24434

simultaneous operation, finds that the following sections, 24435
presented in this act as composites of the sections as amended 24436
by the acts indicated, are the resulting versions of the 24437
sections in effect prior to the effective date of the sections 24438
as presented in this act: 24439

Section 2151.414 of the Revised Code as amended by both 24440
Am. Sub. H.B. 130 and Am. Sub. H.B. 213 of the 130th General 24441
Assembly. 24442

Section 2151.421 of the Revised Code as amended by both 24443
Am. Sub. H.B. 213 and Am. Sub. H.B. 483 of the 130th General 24444
Assembly. 24445

Section 3791.031 of the Revised Code as amended by both 24446
Am. Sub. H.B. 117 and Am. Sub. S.B. 162 of the 121st General 24447
Assembly. 24448

Section 5123.61 of the Revised Code as amended by both 24449
Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General 24450
Assembly. 24451

Section 5705.05 of the Revised Code as amended by both 24452
Sub. H.B. 458 and Sub. S.B. 353 of the 127th General Assembly. 24453

Section 4. It is the intent of this act to replace the 24454
phrase "mentally retarded person" and related phrasings with the 24455
phrase "person with an intellectual disability" and related 24456
phrasings, without any change in meaning. Whenever the phrase 24457
"mentally retarded person," or a related phrase, is used in a 24458
statute, rule, contract, grant, or other document created in 24459
relation to a section amended by this act, the reference is 24460
deemed to be a reference to a "person with an intellectual 24461
disability," as used in the section amended by this act without 24462
any change in meaning. 24463