

As Reported by the House Rules and Reference Committee

131st General Assembly

Regular Session

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Sub. H. B. No. 432

Representatives Cupp, Rezabek

A BILL

To amend sections 1901.261, 1907.261, 2101.026, 1
2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2
2105.32, 2105.33, 2105.34, 2105.35, 2105.36, 3
2105.37, 2105.39, 2106.13, 2106.18, 2107.07, 4
2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 5
2153.081, 2301.031, 4505.10, 5801.10, 5803.02, 6
5804.02, 5808.16, 5812.32, 5812.46, 5812.51, 7
5814.01, 5814.02, 5814.03, 5814.04, 5814.05, 8
5814.06, 5814.07, 5814.08, 5814.09, and 5815.23; 9
to amend, for the purpose of adopting new 10
section numbers as indicated in parentheses, 11
sections 2105.39 (2105.38) and 5814.09 12
(5814.10); to enact new sections 2105.39 and 13
5814.09 and sections 2105.40, 2127.012, and 14
5802.04; and to repeal section 2105.38 of the 15
Revised Code to revise the law governing 16
decedent's estates by making changes in the Ohio 17
Trust Code, the Probate Law, the Uniform 18
Principal and Income Act, the Transfers to 19
Minors Act, and the Uniform Simultaneous Death 20
Act; to raise the ceilings on the optional 21
additional fees that a probate, domestic 22
relations, juvenile, municipal, or county court 23
or the Cuyahoga County Juvenile Court may charge 24

to fund computerization of the court or the 25
court clerk's office, and to authorize use of 26
the additional clerk's fees to fund 27
technological advances in the clerk's office; 28
and to authorize the director or any designee of 29
the Franklin County Guardianship Service Board 30
to act on behalf of the Board on guardianship 31
matters, and to permit the Board to charge a 32
reasonable fee for services to wards. 33

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

Section 1. That sections 1901.261, 1907.261, 2101.026, 34
2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2105.32, 2105.33, 35
2105.34, 2105.35, 2105.36, 2105.37, 2105.39, 2106.13, 2106.18, 36
2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 37
2153.081, 2301.031, 4505.10, 5801.10, 5803.02, 5804.02, 5808.16, 38
5812.32, 5812.46, 5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 39
5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 5815.23 be 40
amended; sections 2105.39 (2105.38) and 5814.09 (5814.10) be 41
amended for the purpose of adopting new section numbers as shown 42
in parentheses; and new sections 2105.39 and 5814.09 and 43
sections 2105.40, 2127.012, and 5802.04 of the Revised Code be 44
enacted to read as follows: 45

Sec. 1901.261. (A) (1) A municipal court may determine that 46
for the efficient operation of the court additional funds are 47
required to computerize the court, to make available 48
computerized legal research services, or to do both. Upon making 49
a determination that additional funds are required for either or 50
both of those purposes, the court shall include in its schedule 51

of fees and costs under section 1901.26 of the Revised Code one 52
additional fee not to exceed ~~three~~six dollars on the filing of 53
each cause of action or appeal equivalent to one described in 54
division (A), (Q), or (U) of section 2303.20 of the Revised Code 55
and shall direct the clerk of the court to charge the fee. 56

(2) All fees collected under this section shall be paid on 57
or before the twentieth day of the month following the month in 58
which they are collected to the county treasurer if the court is 59
a county-operated municipal court or to the city treasurer if 60
the court is not a county-operated municipal court. The 61
treasurer shall place the funds from the fees in a separate fund 62
to be disbursed upon an order of the court, subject to an 63
appropriation by the board of county commissioners if the court 64
is a county-operated municipal court or by the legislative 65
authority of the municipal corporation if the court is not a 66
county-operated municipal court, or upon an order of the court, 67
subject to the court making an annual report available to the 68
public listing the use of all such funds, in an amount not 69
greater than the actual cost to the court of computerizing the 70
court, procuring and maintaining computerized legal research 71
services, or both. 72

(3) If the court determines that the funds in the fund 73
described in division (A) (2) of this section are more than 74
sufficient to satisfy the purpose for which the additional fee 75
described in division (A) (1) of this section was imposed, the 76
court may declare a surplus in the fund and, subject to an 77
appropriation by the board of county commissioners if the court 78
is a county-operated municipal court or by the legislative 79
authority of the municipal corporation if the court is not a 80
county-operated municipal court, expend those surplus funds, or 81
upon an order of the court, subject to the court making an 82

annual report available to the public listing the use of all 83
such funds, expend those surplus funds, for other appropriate 84
technological expenses of the court. 85

(B) (1) A municipal court may determine that, for the 86
efficient operation of the court, additional funds are required 87
to make technological advances in or to computerize the office 88
of the clerk of the court and, upon that determination, may 89
include in its schedule of fees and costs under section 1901.26 90
of the Revised Code an additional fee not to exceed ~~ten~~twenty 91
dollars on the filing of each cause of action or appeal, on the 92
filing, docketing, and endorsing of each certificate of 93
judgment, or on the docketing and indexing of each aid in 94
execution or petition to vacate, revive, or modify a judgment 95
that is equivalent to one described in division (A), (P), (Q), 96
(T), or (U) of section 2303.20 of the Revised Code. Subject to 97
division (B) (2) of this section, all moneys collected under 98
division (B) (1) of this section shall be paid on or before the 99
twentieth day of the month following the month in which they are 100
collected to the county treasurer if the court is a county- 101
operated municipal court or to the city treasurer if the court 102
is not a county-operated municipal court. The treasurer shall 103
place the funds from the fees in a separate fund to be 104
disbursed, upon an order of the municipal court and subject to 105
an appropriation by the board of county commissioners if the 106
court is a county-operated municipal court or by the legislative 107
authority of the municipal corporation if the court is not a 108
county-operated municipal court, in an amount no greater than 109
the actual cost to the court of procuring and maintaining 110
technology and computer systems for the office of the clerk of 111
the municipal court. 112

(2) If a municipal court makes the determination described 113

in division (B) (1) of this section, the board of county 114
commissioners of the county if the court is a county-operated 115
municipal court or the legislative authority of the municipal 116
corporation if the court is not a county-operated municipal 117
court, may issue one or more general obligation bonds for the 118
purpose of procuring and maintaining the technology and computer 119
systems for the office of the clerk of the municipal court. In 120
addition to the purposes stated in division (B) (1) of this 121
section for which the moneys collected under that division may 122
be expended, the moneys additionally may be expended to pay debt 123
charges and financing costs related to any general obligation 124
bonds issued pursuant to division (B) (2) of this section as they 125
become due. General obligation bonds issued pursuant to division 126
(B) (2) of this section are Chapter 133. securities. 127

Sec. 1907.261. (A) (1) A county court may determine that 128
for the efficient operation of the court additional funds are 129
required to computerize the court, to make available 130
computerized legal research services, or to do both. Upon making 131
a determination that additional funds are required for either or 132
both of those purposes, the court shall include in its schedule 133
of fees and costs under section 1907.24 of the Revised Code one 134
additional fee not to exceed ~~three~~-six dollars on the filing of 135
each cause of action or appeal equivalent to one described in 136
division (A), (Q), or (U) of section 2303.20 of the Revised Code 137
and shall direct the clerk of the court to charge the fee. 138

(2) All fees collected under this section shall be paid on 139
or before the twentieth day of the month following the month in 140
which they are collected to the county treasurer. The treasurer 141
shall place the funds from the fees in a separate fund to be 142
disbursed either upon an order of the court, subject to an 143
appropriation by the board of county commissioners, or upon an 144

order of the court, subject to the court making an annual report 145
available to the public listing the use of all such funds, in an 146
amount not greater than the actual cost to the court of 147
computerizing the court, procuring and maintaining computerized 148
legal research services, or both. 149

(3) If the court determines that the funds in the fund 150
described in division (A) (2) of this section are more than 151
sufficient to satisfy the purpose for which the additional fee 152
described in division (A) (1) of this section was imposed, the 153
court may declare a surplus in the fund and, subject to an 154
appropriation by the board of county commissioners, expend those 155
surplus funds, or upon an order of the court, subject to the 156
court making an annual report available to the public listing 157
the use of all such funds, expend those surplus funds, for other 158
appropriate technological expenses of the court. 159

(B) (1) A county court may determine that, for the 160
efficient operation of the court, additional funds are required 161
to make technological advances in or to computerize the office 162
of the clerk of the court and, upon that determination, may 163
include in its schedule of fees and costs under section 1907.24 164
of the Revised Code an additional fee not to exceed ~~ten~~ twenty 165
dollars on the filing of each cause of action or appeal, on the 166
filing, docketing, and endorsing of each certificate of 167
judgment, or on the docketing and indexing of each aid in 168
execution or petition to vacate, revive, or modify a judgment 169
that is equivalent to one described in division (A), (P), (Q), 170
(T), or (U) of section 2303.20 of the Revised Code. Subject to 171
division (B) (2) of this section, all moneys collected under 172
division (B) (1) of this section shall be paid on or before the 173
twentieth day of the month following the month in which they are 174
collected to the county treasurer. The treasurer shall place the 175

funds from the fees in a separate fund to be disbursed, upon an order of the county court and subject to an appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining technology and computer systems for the office of the clerk of the county court.

(2) If a county court makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining technology and the computer systems for the office of the clerk of the county court. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133. securities.

Sec. 2101.026. (A) The probate court of Franklin county may accept funds or other program assistance from, or charge fees for services described in division (B) of this section rendered to, individuals, corporations, agencies, or organizations, including, but not limited to, the board of alcohol, drug addiction, and mental health services of Franklin county or the Franklin county board of developmental disabilities. Any funds or fees received by the probate court of Franklin county under this division shall be paid into the treasury of Franklin county and credited to a fund to be known as the Franklin county probate court mental health fund.

(B) The moneys in the Franklin county probate court mental health fund shall be used for services to help ensure the treatment of any person who is under the care of the board of alcohol, drug addiction, and mental health services of Franklin county, the Franklin county board of developmental disabilities, or any other guardianships. These services include, but are not limited to, involuntary commitment proceedings and the establishment and management of adult guardianships, including all associated expenses, for wards who are under the care of the board of alcohol, drug addiction, and mental health services of Franklin county, the Franklin county board of developmental disabilities, or any other guardianships.

(C) If the judge of the probate court of Franklin county determines that some of the moneys in the Franklin county probate court mental health fund are needed for the efficient operation of that court, the moneys may be used for the acquisition of equipment, the hiring and training of staff, community services programs, volunteer guardianship training services, the employment of magistrates, and other related services.

(D) The moneys in the Franklin county probate court mental health fund that may be used in part for the establishment and management of adult guardianships under division (B) of this section may be utilized to establish a Franklin county guardianship service.

(E) (1) A Franklin county guardianship service under division (D) of this section is established by creating a Franklin county guardianship service board comprised of three members. The judge of the probate court of Franklin county shall appoint one member. The board of directors of the Franklin

county board of developmental disabilities shall appoint one 236
member. The board of directors of the board of alcohol, drug 237
addiction, and mental health services of Franklin county shall 238
appoint one member. The term of appointment of each member is 239
four years. 240

(2) The Franklin county guardianship service board may 241
appoint a director of the board. The board shall determine the 242
compensation of the director based on the availability of funds 243
contained in the Franklin county probate court mental health 244
fund. 245

~~(3) The members and the director, if any, of the Franklin~~ 246
~~county guardianship service board may receive appointments from~~ 247
~~the probate court of Franklin county to serve as guardians of~~ 248
~~both the person and estate of wards. The The director or any~~ 249
~~designee of the Franklin county guardianship service board may~~ 250
~~act on behalf of the board in relation to all guardianship~~ 251
~~matters.~~ 252

(4) The director of the Franklin county guardianship 253
service board may hire employees subject to available funds in 254
the Franklin county probate court mental health fund. 255

~~(4) If a new director replaces a previously appointed~~ 256
~~director of the Franklin county guardianship service board, the~~ 257
~~new director shall replace the former director serving as a~~ 258
~~guardian under division (E) (3) of this section without the need~~ 259
~~of a successor guardianship hearing conducted by the probate~~ 260
~~court of Franklin county so long as the wards are the same wards~~ 261
~~for both the former director and the new director.~~ 262

(5) The Franklin county guardianship service board may 263
charge a reasonable fee for services provided to wards. The 264

<u>probate judge shall approve any fees charged by the board under</u>	265
<u>division (E) (5) of this section.</u>	266
<u>(6)</u> The Franklin county guardianship service board that is	267
created under division (E) (1) of this section shall promulgate	268
all rules and regulations necessary for the efficient operation	269
of the board and the Franklin county guardianship service.	270
Sec. 2101.16. (A) Except as provided in section 2101.164	271
of the Revised Code, the fees enumerated in this division shall	272
be charged and collected, if possible, by the probate judge and	273
shall be in full for all services rendered in the respective	274
proceedings:	275
(1) Account, in addition to advertising charges	276
.....\$ 12.00	277
Waivers and proof of notice of hearing on account,	278
per page, minimum one dollar	279
.....\$ 1.00	280
(2) Account of distribution, in addition to	281
advertising charges	282
.....\$ 7.00	283
(3) Adoption of child, petition for	284
.....\$ 50.00	285
(4) Alter or cancel contract for sale or purchase of	286
real property, complaint to	287
.....\$ 20.00	288
(5) Application and order not otherwise provided for	289
in this section or by rule adopted pursuant to	290
division (E) of this section	291
.....\$ 5.00	292
(6) Appropriation suit, per day, hearing in	293
.....\$ 20.00	294
(7) Birth, application for registration of	295

.....	\$ 7.00	296
(8) Birth record, application to correct		297
.....	\$ 5.00	298
(9) Bond, application for new or additional		299
.....	\$ 5.00	300
(10) Bond, application for release of surety or reduction of		301
.....	\$ 5.00	302
(11) Bond, receipt for securities deposited in lieu of		303
.....	\$ 5.00	304
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar		305
.....	\$ 1.00	306
(13) Citation and issuing citation, application for		307
.....	\$ 5.00	308
(14) Change of name, petition for		309
.....	\$ 20.00	310
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own		311
.....	\$ 10.00	312
(16) Claim, application to compromise or settle		313
.....	\$ 10.00	314
(17) Claim, authority to present		315
.....	\$ 10.00	316
(18) Commissioner, appointment of		317
.....	\$ 5.00	318
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for		319
.....	\$ 5.00	320
(20) Competency, application to procure adjudication of		321
.....	\$ 20.00	322
(21) Complete contract, application to		323

.....	\$ 10.00	328
(22) Concealment of assets, citation for		329
.....	\$ 10.00	330
(23) Construction of will, complaint for		331
.....	\$ 20.00	332
(24) Continue decedent's business, application to		333
.....	\$ 10.00	334
Monthly reports of operation		335
.....	\$ 5.00	336
(25) Declaratory judgment, complaint for		337
.....	\$ 20.00	338
(26) Deposit of will		339
.....	\$ 5.00	340
	<u>25.00</u>	341
(27) Designation of heir		342
.....	\$ 20.00	343
(28) Distribution in kind, application, assent, and order for		344
.....	\$ 5.00	346
(29) Distribution under section 2109.36 of the Revised Code, application for an order of		347
.....	\$ 7.00	349
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars		350
.....	\$ 15.00	353
(31) Exceptions to any proceeding named in this section, contest of appointment or		354
.....	\$ 10.00	356
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to		357
.....	\$ 10.00	359

(33) Election of surviving spouse under will	360
.....\$ 5.00	361
(34) Fiduciary, including an assignee or trustee of	362
an insolvent debtor or any guardian or conservator	363
accountable to the probate court, appointment of	364
.....\$ 35.00	365
(35) Foreign will, application to record	366
.....\$ 10.00	367
Record of foreign will, additional, per page	368
.....\$ 1.00	369
(36) Forms when supplied by the probate court, not to	370
exceed	371
.....\$ 10.00	372
(37) Heirship, complaint to determine	373
.....\$ 20.00	374
(38) Injunction proceedings	375
.....\$ 20.00	376
(39) Improve real property, petition to	377
.....\$ 20.00	378
(40) Inventory with appraisement	379
.....\$ 10.00	380
(41) Inventory without appraisement	381
.....\$ 7.00	382
(42) Investment or expenditure of funds, application	383
for	384
.....\$ 10.00	385
(43) Invest in real property, application to	386
.....\$ 10.00	387
(44) Lease for oil, gas, coal, or other mineral,	388
petition to	389
.....\$ 20.00	390
(45) Lease or lease and improve real property,	391

petition to		392
.....	.....\$ 20.00	393
(46) Marriage license		394
.....	.....\$ 10.00	395
Certified abstract of each marriage		396
.....	.....\$ 2.00	397
(47) Minor or incompetent person, etc., disposal of		398
estate under twenty-five thousand dollars of		399
.....	.....\$ 10.00	400
(48) Mortgage or mortgage and repair or improve real		401
property, complaint to		402
.....	.....\$ 20.00	403
(49) Newly discovered assets, report of		404
.....	.....\$ 7.00	405
(50) Nonresident executor or administrator to bar		406
creditors' claims, proceedings by		407
.....	.....\$ 20.00	408
(51) Power of attorney or revocation of power, bonding		409
company		410
.....	.....\$ 10.00	411
(52) Presumption of death, petition to establish		412
.....	.....\$ 20.00	413
(53) Probating will		414
.....	.....\$ 15.00	415
Proof of notice to beneficiaries		416
.....	.....\$ 5.00	417
(54) Purchase personal property, application of		418
surviving spouse to		419
.....	.....\$ 10.00	420
(55) Purchase real property at appraised value,		421
petition of surviving spouse to		422
.....	.....\$ 20.00	423

(56) Receipts in addition to advertising charges,		424
application and order to record		425
.....\$	5.00	426
Record of those receipts, additional, per page		427
.....\$	1.00	428
(57) Record in excess of fifteen hundred words in any		429
proceeding in the probate court, per page		430
.....\$	1.00	431
(58) Release of estate by mortgagee or other lienholder		432
.....\$	5.00	433
(59) Relieving an estate from administration under		434
section 2113.03 of the Revised Code or granting		435
an order for a summary release from administration		436
under section 2113.031 of the Revised Code		437
.....\$	60.00	438
(60) Removal of fiduciary, application for		439
.....\$	10.00	440
(61) Requalification of executor or administrator		441
.....\$	10.00	442
(62) Resignation of fiduciary		443
.....\$	5.00	444
(63) Sale bill, public sale of personal property		445
.....\$	10.00	446
(64) Sale of personal property and report, application		447
for		448
.....\$	10.00	449
(65) Sale of real property, petition for		450
.....\$	25.00	451
(66) Terminate guardianship, petition to		452
.....\$	10.00	453
(67) Transfer of real property, application, entry,		454
and certificate for		455

.....	\$ 7.00	456
(68) Unclaimed money, application to invest		457
.....	\$ 7.00	458
(69) Vacate approval of account or order of		459
distribution, motion to		460
.....	\$ 10.00	461
(70) Writ of execution		462
.....	\$ 5.00	463
(71) Writ of possession		464
.....	\$ 5.00	465
(72) Wrongful death, application and settlement of		466
claim for		467
.....	\$ 20.00	468
(73) Year's allowance, petition to review		469
.....	\$ 7.00	470
(74) Guardian's report, filing and review of		471
.....	\$ 5.00	472
(75) Mentally ill person subject to court order,		473
filing of affidavit and proceedings for		474
.....	\$ 25.00	475
(B) (1) In relation to an application for the appointment		476
of a guardian or the review of a report of a guardian under		477
section 2111.49 of the Revised Code, the probate court, pursuant		478
to court order or in accordance with a court rule, may direct		479
that the applicant or the estate pay any or all of the expenses		480
of an investigation conducted pursuant to section 2111.041 or		481
division (A) (2) of section 2111.49 of the Revised Code. If the		482
investigation is conducted by a public employee or investigator		483
who is paid by the county, the fees for the investigation shall		484
be paid into the county treasury. If the court finds that an		485
alleged incompetent or a ward is indigent, the court may waive		486

the costs, fees, and expenses of an investigation.	487
(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.	488 489 490 491 492 493 494 495 496 497
(3) In relation to the filing of an affidavit of mental illness for a mentally ill person subject to court order, the court may waive the fee under division (A) (75) of this section if the court finds that the affiant is indigent or for good cause shown.	498 499 500 501 502
(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A) (34) of this section and twenty dollars of the sixty-dollar fee collected pursuant to division (A) (59) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to section 2111.51 of the Revised Code.	503 504 505 506 507 508
(D) The fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the probate court or by order of the probate judge shall be the same as provided for similar services in the court of common pleas.	509 510 511 512
(E) The probate court, by rule, may require an advance deposit for costs, not to exceed one hundred twenty-five dollars, at the time application is made for an appointment as	513 514 515

executor or administrator or at the time a will is presented for 516
probate. 517

(F) (1) Thirty dollars of the fifty-dollar fee collected 518
pursuant to division (A) (3) of this section shall be deposited 519
into the "putative father registry fund," which is hereby 520
created in the state treasury. The department of job and family 521
services shall use the money in the fund to fund the 522
department's costs of performing its duties related to the 523
putative father registry established under section 3107.062 of 524
the Revised Code. 525

(2) If the department determines that money in the 526
putative father registry fund is more than is needed for its 527
duties related to the putative father registry, the department 528
may use the surplus moneys in the fund as permitted in division 529
(C) of section 2151.3529, division (B) of section 2151.3530, or 530
section 5103.155 of the Revised Code. 531

Sec. 2101.162. (A) (1) The probate judge may determine 532
that, for the efficient operation of the probate court, 533
additional funds are required to computerize the court, to make 534
available computerized legal research services, or to do both. 535
Upon making a determination that additional funds are required 536
for either or both of those purposes, the probate judge shall 537
charge a fee not to exceed ~~three-six~~ dollars or authorize and 538
direct a deputy clerk of the probate court to charge a fee not 539
to exceed ~~three-six~~ dollars, in addition to the fees specified 540
in divisions (A) (1), (3), (4), (6), (14) to (17), (20) to (25), 541
(27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) 542
to (61), (63) to (66), (69), and (72) of section 2101.16 of the 543
Revised Code and the fee charged in connection with the 544
docketing and indexing of an appeal. 545

(2) All moneys collected under division (A) (1) of this section shall be paid to the county treasurer. The treasurer shall place the moneys from the fees in a separate fund to be disbursed, upon an order of the probate judge, in an amount no greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A) (2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A) (1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B) (1) The probate judge may determine that, for the efficient operation of the probate court, additional funds are required to make technological advances in or to computerize the office of the clerk of the court and, upon that determination, may charge a fee, not to exceed ~~ten~~ twenty dollars, or authorize and direct a deputy clerk of the probate court to charge a fee, not to exceed ~~ten~~ twenty dollars, in addition to the fees specified in divisions (A) (1), (3), (4), (6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to (66), (69), and (72) of section 2101.16 of the Revised Code and the fee charged in connection with the docketing and indexing of an appeal. Subject to division (B) (2) of this section, all moneys collected under this division shall be paid to the county treasurer to be disbursed, upon an order of the probate judge and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the probate court of procuring and maintaining technology and computer systems for the office of

the clerk of the court. 577

(2) If the probate judge makes the determination described 578
in division (B)(1) of this section, the board of county 579
commissioners may issue one or more general obligation bonds for 580
the purpose of procuring and maintaining the technology and 581
computer systems for the office of the clerk of the probate 582
court. In addition to the purposes stated in division (B)(1) of 583
this section for which the moneys collected under that division 584
may be expended, the moneys additionally may be expended to pay 585
debt charges on and financing costs related to any general 586
obligation bonds issued pursuant to this division as they become 587
due. General obligation bonds issued pursuant to this division 588
are Chapter 133. securities. 589

Sec. 2105.02. ~~When, in Chapter 2105. of the Revised Code—~~ 590
this chapter, a person is described as living, it means that the 591
person was living at the time of the death of the intestate from 592
whom the estate came and that the person lived for at least one 593
hundred twenty hours following the death of the intestate, and 594
when a person is described as having died, it means that the 595
person died before such intestate or that the person failed to 596
live for at least one hundred twenty hours following the death 597
of the intestate. 598

Sec. 2105.14. ~~Descendants of an intestate begotten before—~~ 599
~~the intestate's death, but born after the intestate's death, in—~~ 600
~~all cases will inherit as if born in the lifetime of the—~~ 601
~~intestate and surviving the intestate; but in no other case can—~~ 602
~~a person—~~ No descendant of an intestate shall inherit under this 603
chapter unless living at the time of the death of surviving the 604
intestate for at least one hundred twenty hours, or unless born 605
within three hundred days after the death of the intestate and 606

living for at least one hundred twenty hours after birth. 607

Sec. 2105.31. As used in sections 2105.31 to ~~2105.39~~ 608
2105.40 of the Revised Code: 609

(A) "Co-owners with right of survivorship" includes joint 610
tenants, tenants by the entireties, and other co-owners of ~~real-~~ 611
~~or personal property, insurance or other policies, or bank,~~ 612
~~savings bank, credit union, or other accounts,~~ held under 613
circumstances that entitle one or more ~~persons~~ individuals to 614
the whole of the property or account on the death of the other 615
~~person~~ individual or ~~persons~~ individuals. 616

(B) "Governing instrument" means a deed, will, trust, 617
insurance or annuity policy, account with a transfer-on-death 618
designation or the abbreviation TOD, account with a payable-on- 619
death designation or the abbreviation POD, transfer-on-death 620
designation affidavit, pension, profit-sharing, retirement, or 621
similar benefit plan, instrument creating or exercising a power 622
of appointment or a power of attorney, or a dispositive, 623
appointive, or nominative instrument of any similar type. 624

(C) "Payor" means a trustee, insurer, business entity, 625
employer, government, governmental agency, political subdivision 626
or instrumentality, or any other person authorized or obligated 627
by law or a governing instrument to make payments or transfers. 628

~~(D) "Event" includes the death of another person.~~ 629

Sec. 2105.32. (A) Except as provided in section 2105.36 of 630
the Revised Code, a person if title to property, the devolution 631
of property, the right to elect an interest in property, or the 632
right to exempt property, homestead, or allowance for support 633
depends upon an individual's survivorship of the death of 634
another individual, an individual who is not established by 635

clear and convincing evidence to have survived ~~another specified-~~ 636
~~person the other individual~~ by one hundred twenty hours is 637
deemed to have predeceased the other ~~person for the following-~~ 638
~~purposes:~~ individual. 639

~~(1) When the title to real or personal property or the~~ 640
~~devolution of real or personal property depends upon a person's-~~ 641
~~survivorship of the death of another person;~~ 642

~~(2) When the right to elect an interest in or exempt a~~ 643
~~surviving spouse's share of an intestate estate under section-~~ 644
~~2105.06 of the Revised Code depends upon a person's survivorship-~~ 645
~~of the death of another person;~~ 646

~~(3) When the right to elect an interest in or exempt an~~ 647
~~interest of the decedent in the mansion house pursuant to~~ 648
~~section 2106.10 of the Revised Code depends upon a person's~~ 649
~~survivorship of the death of another person;~~ 650

~~(4) When the right to elect an interest in or exempt an~~ 651
~~allowance for support pursuant to section 2106.13 of the Revised-~~ 652
~~Code depends upon a person's survivorship of the death of~~ 653
~~another person.~~ 654

(B) This section does not apply if its application would 655
result in a taking of an intestate estate by the state. 656

Sec. 2105.33. Except as provided in section 2105.36 of the 657
Revised Code, ~~a person~~ an individual who is not established by 658
clear and convincing evidence to have survived ~~a specified~~ an 659
event by one hundred twenty hours is deemed to have predeceased 660
the event for purposes of a provision of a governing instrument 661
that relates to the ~~person~~ individual surviving an event, 662
including the death of another individual. 663

Sec. 2105.34. Except as provided in section 2105.36 of the 664

Revised Code, the following shall apply: 665

(A) If it is not established by clear and convincing 666
evidence that one of two co-owners with right of survivorship ~~in~~ 667
~~specified real or personal property~~ survived the other co-owner 668
by one hundred twenty hours, ~~that one-half of the property shall~~ 669
~~pass or account passes as if each person one co-owner had~~ 670
survived the other ~~person co-owner~~ by one hundred twenty hours, ~~and~~ 671
one-half of the property or account passes as if the other 672
co-owner had survived the one co-owner by one hundred twenty 673
hours. 674

(B) If there are more than two co-owners with right of 675
survivorship ~~in specified real or personal property~~ and it is 676
not established by clear and convincing evidence that at least 677
one of the co-owners survived the others by one hundred twenty 678
hours, ~~that the property shall pass or account passes~~ in the 679
proportion that ~~each person owns~~ one co-owner's ownership bears 680
to the ownership of the whole number of co-owners. 681

Sec. 2105.35. In addition to any provisions of the Rules 682
of Evidence, the following provisions relating to the 683
determination of death and status apply: 684

(A) (1) ~~A person is dead if the person has been determined~~ 685
~~to be dead pursuant to standards established under section~~ 686
~~2108.40 of the Revised Code~~ An individual is dead if the 687
individual has sustained either irreversible cessation of 688
circulatory and respiratory functions or irreversible cessation 689
of all functions of the brain, including the brain stem, as 690
determined in accordance with accepted medical standards. If the 691
respiratory and circulatory functions of an individual are being 692
artificially sustained, under accepted medical standards a 693
determination that death has occurred is made by a physician by 694

observing and conducting a test to determine that the 695
irreversible cessation of all functions of the brain has 696
occurred. 697

(2) A physician who makes a determination of death in 698
accordance with division (A) of this section~~2108.40 of the~~ 699
~~Revised Code and any person who acts in good faith in reliance~~ 700
~~on a determination of death made by a physician in accordance~~ 701
~~with that section is entitled to the immunity conveyed by that~~ 702
~~section and accepted medical standards is not liable for damages~~ 703
in any civil action or subject to prosecution in any criminal 704
proceeding for the physician's acts or the acts of others based 705
on that determination. 706

(3) Any person who acts in good faith and relies on a 707
determination of death made by a physician in accordance with 708
division (A) of this section and accepted medical standards is 709
not liable for damages in any civil action or subject to 710
prosecution in any criminal proceeding for the person's actions. 711

(B) A certified or authenticated copy of a death 712
certificate purporting to be issued by an official or agency of 713
the place where the death of ~~a person~~an individual purportedly 714
occurred is prima-facie evidence of the fact, place, date, and 715
time of the ~~person's~~individual's death and the identity of the 716
decedent. 717

(C) A certified or authenticated copy of any record or 718
report of a domestic or foreign governmental agency that ~~a~~ 719
~~person~~an individual is missing, detained, dead, or alive is 720
prima-facie evidence of the status and of the dates, 721
circumstances, and places disclosed by the record or report. 722

(D) In the absence of prima-facie evidence of death under 723

division (B) or (C) of this section, the fact of death may be 724
established by clear and convincing evidence, including 725
circumstantial evidence. 726

(E) Except as provided in division (F) of this section, a 727
presumption of the death of ~~a person~~ an individual arises when 728
either of the following applies: 729

(1) ~~When the person~~ The individual has disappeared and has 730
been continuously absent from the ~~person's~~ individual's place of 731
last domicile for a five-year period without being heard from 732
during the period; 733

(2) ~~When the person~~ The individual has disappeared and has 734
been continuously absent from the ~~person's~~ individual's place of 735
last domicile without being heard from and was at the beginning 736
of the ~~person's~~ individual's absence exposed to a specific peril 737
of death, even though the absence has continued for less than a 738
five-year period. 739

(F) When ~~a person~~ an individual who is on active duty in 740
the armed services of the United States has been officially 741
determined to be absent in a status of "missing" or "missing in 742
action," a presumption of death arises when the head of the 743
federal department concerned has made a finding of death 744
pursuant to the "Federal Missing Persons Act," 80 Stat. 625 745
(1966), 37 U.S.C.A. 551, as amended. 746

(G) In the absence of evidence disputing the time of death 747
stipulated on a document described in division (B) or (C) of 748
this section, a document described in either of those divisions 749
that stipulates a time of death of an individual one hundred 750
twenty hours or more after the time of death of another ~~person~~ 751
individual, however the time of death of the other ~~person~~ 752

individual is determined, establishes by clear and convincing 753
evidence that the ~~person~~individual survived the other ~~person~~ 754
individual by one hundred twenty hours. 755

~~(H) The provisions of divisions (A) to (G) of this section~~ 756
~~are in addition to any other provisions of the Revised Code, the~~ 757
~~Rules of Criminal Procedure, or the Rules of Evidence that~~ 758
~~pertain to the determination of death and status of a person.~~ 759

Sec. 2105.36. A person who is not established by clear and 760
convincing evidence to have survived another specified person by 761
one hundred twenty hours shall not be deemed to have predeceased 762
the other person. Survival by one hundred twenty hours is not 763
required if any of the following ~~apply~~ applies: 764

(A) The governing instrument contains language dealing 765
explicitly with simultaneous deaths or deaths in a common 766
disaster, and that language is ~~operative~~ operable under the 767
~~situation in question~~ facts of the case. 768

(B) The governing instrument expressly indicates that a ~~a~~ 769
~~person~~ an individual is not required to survive an event, 770
including the death of another individual, by any specified 771
~~period in order for any right or interest governed by the~~ 772
~~instrument to properly vest or transfer,~~ or expressly requires 773
the individual to survive the event for a specified period, but 774
the survival of the event for the specified period shall be 775
established by clear and convincing evidence. 776

(C) ~~The governing instrument expressly requires the person~~ 777
~~to survive the event for a specified period in order for any~~ 778
~~right or interest governed by the instrument to properly vest or~~ 779
~~transfer, and the survival of the event by the person or~~ 780
~~survival of the event by the person for the specified period is~~ 781

~~established by clear and convincing evidence.~~ 782

~~(D)~~ The imposition of a one-hundred-twenty-hour 783
requirement of ~~the person's survival of the other specified~~ 784
~~person causes would cause~~ a nonvested property interest or a 785
power of appointment to be invalid under section 2131.08 of the 786
Revised Code, ~~and but~~ the ~~person's survival of the other~~ 787
~~specified person is shall be~~ established by clear and convincing 788
evidence. 789

~~(E)~~ ~~(D)~~ The application of a one-hundred-twenty-hour 790
requirement of survival to multiple governing instruments would 791
result in an unintended failure or duplication of a disposition, 792
~~and but~~ the ~~person's survival of the other specified person is~~ 793
~~shall be~~ established by clear and convincing evidence. 794

Sec. 2105.37. (A) A payor or other third party is not 795
liable for any of the following: 796

(1) ~~Making~~ Having made a payment, ~~transferring or~~ 797
~~transferred~~ an item of ~~real or personal~~ property, ~~or otherwise~~ 798
~~transferring~~ any other benefit to a person designated in a 799
governing instrument who, under sections 2105.31 to ~~2105.39~~ 800
2105.40 of the Revised Code, is not entitled to the payment or 801
item of property ~~or other benefit~~, if the payment or transfer 802
was made before the payor or other third party received written 803
notice of a claimed lack of entitlement ~~pursuant to~~ under those 804
~~sections 2105.31 to 2105.39 of the Revised Code;~~ 805

(2) ~~Taking~~ Having taken any other action ~~not specified in~~ 806
~~division (A)(1) of this section~~ in good faith reliance on the 807
person's apparent entitlement under the terms of the governing 808
instrument before the payor or other third party received 809
written notice of a claimed lack of entitlement ~~pursuant to~~ 810

under sections 2105.31 to ~~2105.39~~2105.40 of the Revised Code. 811

(B) A payor or other third party is liable for a payment, 812
transfer, or other action taken after the payor or other third 813
party receives written notice of a claimed lack of entitlement 814
~~pursuant to~~under sections 2105.31 to ~~2105.39~~2105.40 of the 815
Revised Code. 816

(C) Written notice of a claimed lack of entitlement under 817
~~divisions~~division (A) or (B) of this section ~~must~~shall be 818
mailed to the payor's or other third party's main office or home 819
by registered or certified mail, return receipt requested, or 820
served upon the payor or other third party in the same manner as 821
a summons in a civil action. Upon receipt of written notice of a 822
claimed lack of entitlement ~~pursuant to~~under sections 2105.31 823
to ~~2105.39~~2105.40 of the Revised Code, a payor or other third 824
party may pay any amount owed or transfer or deposit any item of 825
~~real or personal~~ property held by it to or with the probate 826
court that has jurisdiction over the decedent's estate. If no 827
probate proceedings have been commenced, upon receipt of written 828
notice of a claimed lack of entitlement ~~pursuant to~~under 829
sections 2105.31 to ~~2105.39~~2105.40 of the Revised Code, a payor 830
or other third party may pay any amount owed or transfer or 831
deposit any item of ~~real or personal~~ property held by it to or 832
with the probate court located in the county of the decedent's 833
residence. The court shall hold the funds or ~~real or personal~~ 834
items of property until it is determined pursuant to, and upon 835
its determination under sections 2105.31 to ~~2105.39~~2105.40 of 836
the Revised Code to whom the funds or ~~real or personal~~ items of 837
property should be disbursed, shall order disbursement in 838
accordance with its determination. ~~The court then shall order~~ 839
~~disbursement of the funds or real or personal property in~~ 840
~~accordance with that determination.~~ Payments, transfers, or 841

deposits made to or with the court discharge the payor or other 842
third party from all claims for the value of amounts paid to or 843
items of property transferred to or deposited with the court. 844

(D) A person who purchases property for value or receives 845
a payment or other item of property or benefit in partial or 846
full satisfaction of a legally enforceable obligation, and 847
without notice that the person selling or transferring the 848
property or benefit or making a payment is not entitled to the 849
property or benefit under sections 2105.31 to 2105.40 of the 850
Revised Code, is neither obligated under those sections to 851
return the payment or item of property or benefit nor liable 852
under those sections for the amount of the payment or the value 853
of the item of property or benefit. 854

(E) A person who, not for value, receives a payment, item 855
of property, or any other benefit to which the person is not 856
entitled under sections 2105.31 to 2105.40 of the Revised Code 857
is obligated to return the payment, item of property, or 858
benefit, or is personally liable for the amount of the payment 859
or the value of the item of property or benefit, to the person 860
who is entitled to it under sections 2105.31 to 2105.40 of the 861
Revised Code. 862

(F) If sections 2105.31 to 2105.40 of the Revised Code or 863
any provision of those sections are preempted by federal law 864
with respect to a payment, an item of property, or any other 865
benefit covered by those sections, a person who, not for value, 866
receives the payment, item of property, or other benefit to 867
which the person is not entitled under sections 2105.31 to 868
2105.40 of the Revised Code is obligated to return the payment, 869
item of property, or benefit, or is personally liable for the 870
amount of the payment or the value of the item of property or 871

benefit, to the person who would have been entitled to it were 872
sections 2105.31 to 2105.40 of the Revised Code or any provision 873
of those sections not preempted. 874

~~Sec. 2105.39~~ **2105.38.** (A) Sections 2105.31 to ~~2105.39~~ 875
~~2105.40~~ of the Revised Code do not impair any act done in any 876
proceeding, or any right that accrued, before ~~May 16, 2002~~ the 877
effective date of the amendment of this section. If a right is 878
acquired, extinguished, or barred upon the expiration of a 879
prescribed period of time that has commenced to run, prior to 880
~~May 16, 2002~~ the effective date of the amendment of this 881
section, under any provision of the Revised Code, the provision 882
of the applicable section of the Revised Code applies with 883
respect to that right. 884

(B) Any rule of construction ~~or presumption regarding any~~ 885
provision of a governing instrument that is provided in sections 886
2105.31 to ~~2105.39~~ 2105.40 of the Revised Code applies to any 887
governing instrument that is executed, ~~or any multiple party~~ 888
~~account that is opened,~~ prior to ~~May 16, 2002~~ the effective date 889
of the amendment of this section, unless there is a clear 890
indication of a contrary intent in the governing instrument ~~or~~ 891
~~multiple party account.~~ 892

~~(C) If any provision of sections 2105.31 to 2105.39 of the~~ 893
~~Revised Code or the application of those sections to any persons~~ 894
~~or circumstance is held invalid, the invalidity does not affect~~ 895
~~other provisions or applications of sections 2105.31 to 2105.39~~ 896
~~of the Revised Code that can be given effect without the invalid~~ 897
~~provision or application.~~ 898

Sec. 2105.39. Sections 2105.31 to 2105.40 of the Revised 899
Code shall be applied and construed to effectuate their general 900
purpose to make uniform the law with respect to the subject of 901

those sections among the states enacting the law. 902

Sec. 2105.40. Sections 2105.31 to 2105.40 of the Revised 903
Code may be cited as the uniform simultaneous death act. 904

Sec. 2106.13. (A) If a person dies leaving a surviving 905
spouse and no minor children, leaving a surviving spouse and 906
minor children, or leaving minor children and no surviving 907
spouse, the surviving spouse, minor children, or both shall be 908
entitled to receive, subject to division (B) of this section, in 909
money or property the sum of forty thousand dollars as an 910
allowance for support. If the surviving spouse selected ~~two~~one 911
or more automobiles under section 2106.18 of the Revised Code, 912
the allowance for support prescribed by this section shall be 913
reduced by the value of the automobile having the ~~lower~~lowest 914
~~value of the two automobiles if more than one automobile is so~~ 915
selected. The money or property set off as an allowance for 916
support shall be considered estate assets. 917

(B) The probate court shall order the distribution of the 918
allowance for support described in division (A) of this section 919
as follows: 920

(1) If the person died leaving a surviving spouse and no 921
minor children, one hundred per cent to the surviving spouse; 922

(2) If the person died leaving a surviving spouse and 923
minor children, and if all of the minor children are the 924
children of the surviving spouse, one hundred per cent to the 925
surviving spouse; 926

(3) If the person died leaving a surviving spouse and 927
minor children, and if not all of the minor children are 928
children of the surviving spouse, in equitable shares, as fixed 929
by the probate court in accordance with this division, to the 930

surviving spouse and the minor children who are not the children 931
of the surviving spouse. In determining equitable shares under 932
this division, the probate court shall do all of the following: 933

(a) Consider the respective needs of the surviving spouse, 934
the minor children who are children of the surviving spouse, and 935
the minor children who are not children of the surviving spouse; 936

(b) Allocate to the surviving spouse, the share that is 937
equitable in light of the needs of the surviving spouse and the 938
minor children who are children of the surviving spouse; 939

(c) Allocate to the minor children who are not children of 940
the surviving spouse, the share that is equitable in light of 941
the needs of those minor children. 942

(4) If the person died leaving minor children and no 943
surviving spouse, in equitable shares, as fixed by the probate 944
court in accordance with this division, to the minor children. 945
In determining equitable shares under this division, the probate 946
court shall consider the respective needs of the minor children 947
and allocate to each minor child the share that is equitable in 948
light of the child's needs. 949

(C) If the surviving spouse selected ~~two~~ one or more 950
automobiles under section 2106.18 of the Revised Code, the 951
probate court, in considering the respective needs of the 952
surviving spouse and the minor children when allocating an 953
allowance for support under division (B) (3) of this section, 954
shall consider the benefit derived by the surviving spouse from 955
the transfer of the automobile having the ~~lower~~ lowest value ~~of~~ 956
~~the two automobiles~~ if more than one automobile is so selected. 957

(D) If, pursuant to this section, the probate court must 958
allocate the allowance for support, the administrator or 959

executor, within five months of the initial appointment of an administrator or executor, shall file with the probate court an application to allocate the allowance for support.

(E) The administrator or executor shall pay the allowance for support unless a competent adult or a guardian with the consent of the court having jurisdiction over the guardianship waives the allowance for support to which the adult or the ward represented by the guardian is entitled.

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

Sec. 2106.18. (A) Upon the death of a married resident who owned at least one automobile at the time of death, the interest of the deceased spouse in ~~up to two~~ one or more automobiles that are not transferred to the surviving spouse due to joint ownership with right of survivorship established under section 2131.12 of the Revised Code, that are not transferred to a transfer-on-death beneficiary or beneficiaries designated under section 2131.13 of the Revised Code, and that are not otherwise specifically disposed of by testamentary disposition may be selected by the surviving spouse. This interest shall immediately pass to the surviving spouse upon transfer of the title or titles in accordance with section 4505.10 of the Revised Code. The sum total of the values of the automobiles selected by a surviving spouse under this division, as specified in the affidavit that the surviving spouse executes pursuant to division (B) of section 4505.10 of the Revised Code, shall not exceed ~~forty~~ sixty-five thousand dollars. Each automobile that

passes to a surviving spouse under this division shall not be 990
considered an estate asset and shall not be included in the 991
estate inventory. 992

(B) The executor or administrator, with the approval of 993
the probate court, may transfer title to an automobile owned by 994
the decedent to any of the following: 995

(1) The surviving spouse, when the automobile is purchased 996
by the surviving spouse pursuant to section 2106.16 of the 997
Revised Code; 998

(2) A distributee; 999

(3) A purchaser. 1000

(C) The executor or administrator may transfer title to an 1001
automobile owned by the decedent without the approval of the 1002
probate court to any of the following: 1003

(1) A legatee entitled to the automobile under the terms 1004
of the will; 1005

(2) A distributee if the distribution of the automobile is 1006
made without court order pursuant to section 2113.55 of the 1007
Revised Code; 1008

(3) A purchaser if the sale of the automobile is made 1009
pursuant to section 2113.39 of the Revised Code. 1010

(D) As used in division (A) of this section, "automobile" 1011
includes a motorcycle and includes a truck if the truck was used 1012
as a method of conveyance by the deceased spouse or the deceased 1013
spouse's family when the deceased spouse was alive. 1014

Sec. 2107.07. A will may be deposited by the testator, or 1015
by some person for the testator, in the office of the judge of 1016

the probate court in the county in which the testator lives, 1017
before or after the death of the testator, and if deposited 1018
after the death of the testator, with or without applying for 1019
its probate. Upon the payment of the fee of twenty-five dollars 1020
to the court, the judge shall receive, keep, and give a 1021
certificate of deposit for the will. That will shall be safely 1022
kept until delivered or disposed of as provided by section 1023
2107.08 of the Revised Code. If the will is not delivered or 1024
disposed of as provided in that section within one hundred years 1025
after the date the will was deposited, the judge may dispose of 1026
the will in any manner the judge considers feasible. The judge, 1027
~~on being paid the fee of five dollars, shall receive, keep, and~~ 1028
~~give a certificate of deposit for~~ shall retain an electronic 1029
copy of the will prior to its disposal after one hundred years 1030
under this section. 1031

Every will that is so deposited shall be enclosed in a 1032
sealed envelope that shall be indorsed with the name of the 1033
testator. The judge shall indorse on the envelope the date of 1034
delivery and the person by whom the will was delivered. The 1035
envelope may be indorsed with the name of a person to whom it is 1036
to be delivered after the death of the testator. The will shall 1037
not be opened or read until delivered to a person entitled to 1038
receive it, until the testator files a complaint in the probate 1039
court for a declaratory judgment of the validity of the will 1040
pursuant to section 2107.081 of the Revised Code, or until 1041
otherwise disposed of as provided in section 2107.08 of the 1042
Revised Code. Subject to section 2107.08 of the Revised Code, 1043
the deposited will shall not be a public record until the time 1044
that an application is filed to probate it. 1045

Sec. 2107.10. (A) No property or right, testate or 1046
intestate, shall pass to a beneficiary named in a will who knows 1047

of the existence of the will for one year after the death of the 1048
testator and has the power to control it and, without reasonable 1049
cause, intentionally conceals or withholds it or neglects or 1050
refuses within that one year to cause it to be offered for or 1051
admitted to probate. The property devised or bequeathed to that 1052
beneficiary shall ~~descend to the heirs of the testator, not~~ 1053
~~including any heir who has concealed or withheld the will~~ pass 1054
as if the beneficiary had predeceased the testator. 1055

(B) No property or right, testate or intestate, passes to 1056
a beneficiary named in a will when the will was declared valid 1057
and filed with a probate judge pursuant to section 2107.084 of 1058
the Revised Code, the declaration and filing took place in a 1059
county different from the county in which the will of the 1060
testator would be probated under section 2107.11 of the Revised 1061
Code, and the named beneficiary knew of the declaration and 1062
filing and of the death of the testator and did not notify the 1063
probate judge with whom the will was filed. This division does 1064
not preclude a named beneficiary from acquiring property or 1065
rights from the estate of the testator for failing to notify a 1066
probate judge if the named beneficiary reasonably believes that 1067
the judge has previously been notified of the testator's death. 1068

Sec. 2109.62. (A) (1) Upon the filing of a motion by a 1069
trustee with the court that has jurisdiction over the trust, 1070
upon the provision of reasonable notice to all beneficiaries who 1071
are known and in being and who have vested or contingent 1072
interests in the trust, and after holding a hearing, the court 1073
may terminate the trust, in whole or in part, if it determines 1074
that all of the following apply: 1075

(a) It is no longer economically feasible to continue the 1076
trust. 1077

(b) The termination of the trust is for the benefit of the beneficiaries. 1078
1079

(c) The termination of the trust is equitable and practical. 1080
1081

(d) The current value of the trust is less than one hundred thousand dollars. 1082
1083

(2) The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to this section. 1084
1085
1086

(B) If property is to be distributed from an estate being probated to a trust and the termination of the trust pursuant to this section does not clearly defeat the intent of the testator, the probate court has jurisdiction to order the outright distribution of the property or to make the property custodial property under sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code. A probate court may so order whether the motion for the order is made by an inter vivos trustee named in the will of the decedent or by a testamentary trustee. 1087
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(C) Upon the termination of a trust pursuant to this section, the probate court shall order the distribution of the trust estate in accordance with any provision specified in the trust instrument for the premature termination of the trust. If there is no provision of that nature in the trust instrument, the probate court shall order the distribution of the trust estate among the beneficiaries of the trust in accordance with their respective beneficial interests and in a manner that the court determines to be equitable. For purposes of ordering the distribution of the trust estate among the beneficiaries of the trust under this division, the court shall consider all of the 1096
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following:	1107
(1) The existence of any agreement among the beneficiaries with respect to their beneficial interests;	1108 1109
(2) The actuarial values of the separate beneficial interests of the beneficiaries;	1110 1111
(3) Any expression of preference of the beneficiaries that is contained in the trust instrument.	1112 1113
Sec. 2111.131. (A) The probate court may enter an order that authorizes a person under a duty to pay or deliver money or personal property to a minor who does not have a guardian of the person and estate or a guardian of the estate, to perform that duty in amounts not exceeding five thousand dollars annually, by paying or delivering the money or property to any of the following:	1114 1115 1116 1117 1118 1119 1120
(1) The guardian of the person only of the minor;	1121
(2) The minor's natural guardians, if any, as determined pursuant to section 2111.08 of the Revised Code;	1122 1123
(3) The minor;	1124
(4) Any person who has the care and custody of the minor and with whom the minor resides, other than a guardian of the person only or a natural guardian;	1125 1126 1127
(5) A financial institution incident to a deposit in a federally insured savings account in the sole name of the minor;	1128 1129
(6) A custodian designated by the court in its order, for the minor under sections 5814.01 to 5814.09 <u>5814.10</u> of the Revised Code.	1130 1131 1132
(B) An order entered pursuant to division (A) of this	1133

section authorizes the person or entity specified in it, to 1134
receive the money or personal property on behalf of the minor 1135
from the person under the duty to pay or deliver it, in amounts 1136
not exceeding five thousand dollars annually. Money or personal 1137
property so received by guardians of the person only, natural 1138
guardians, and custodians as described in division (A) (4) of 1139
this section may be used by them only for the support, 1140
maintenance, or education of the minor involved. The order of 1141
the court is prima-facie evidence that a guardian of the person 1142
only, a natural guardian, or a custodian as described in 1143
division (A) (4) of this section has the authority to use the 1144
money or personal property received. 1145

(C) A person who pays or delivers moneys or personal 1146
property in accordance with a court order entered pursuant to 1147
division (A) of this section is not responsible for the proper 1148
application of the moneys or property by the recipient. 1149

Sec. 2113.86. (A) Unless a will or another governing 1150
instrument otherwise provides, and except as otherwise provided 1151
in this section, a tax shall be apportioned equitably in 1152
accordance with the provisions of this section among all persons 1153
interested in an estate in proportion to the value of the 1154
interest of each person as determined for estate tax purposes. 1155

(B) Except as otherwise provided in this division, any tax 1156
that is apportioned against a gift made in a clause of a will 1157
other than a residuary clause or in a provision of an inter 1158
vivos trust other than a residuary provision, shall be 1159
reapportioned to the residue of the estate or trust. It shall be 1160
charged in the same manner as a general administration expense. 1161
However, when a portion of the residue of the estate or trust is 1162
allowable as a deduction for estate tax purposes, the tax shall 1163

be reapportioned to the extent possible to the portion of the 1164
residue that is not so allowable. 1165

(C) (1) A tax shall not be apportioned against an interest 1166
that is allowable as an estate tax marital or charitable 1167
deduction, except to the extent that the interest is a part of 1168
the residue of an estate or trust against which tax is 1169
reapportioned pursuant to division (B) of this section. 1170

(2) Estate tax of this state or another jurisdiction shall 1171
not be reapportioned against an interest that is allowable as a 1172
deduction for federal estate tax purposes, to the extent that 1173
there is other property in the estate or trust that is not 1174
allowable as a deduction for federal estate tax purposes and 1175
against which estate tax of this state or another jurisdiction 1176
can be apportioned. 1177

(3) A provision in a will or other governing instrument 1178
that apportions tax to an interest that is otherwise allowable 1179
as an estate tax marital or charitable deduction is ineffective 1180
unless it refers to the marital or charitable deduction and 1181
expressly and unambiguously acknowledges and accepts any 1182
resultant partial loss of the deduction. 1183

(D) A tax shall not be apportioned against property that 1184
passes to a surviving spouse as an elective share under section 1185
2106.01 of the Revised Code or as an intestate share under 1186
section 2105.06 of the Revised Code, to the extent that there is 1187
other property in the estate that is not allowable as a 1188
deduction for estate tax purposes against which the tax can be 1189
apportioned. 1190

(E) (1) Any federal estate tax credit for state or foreign 1191
death taxes on property that is includible in an estate for 1192

federal estate tax purposes, shall inure to the benefit of the 1193
persons chargeable with the payment of the state or foreign 1194
death taxes in proportion to the amount of the taxes paid by 1195
each person, but any federal estate tax credit for state or 1196
foreign death taxes inuring to the benefit of a person cannot 1197
exceed the federal estate tax apportioned to that person. 1198

(2) Any federal estate tax credit for gift taxes paid by a 1199
donee of a gift shall inure to the benefit of that donee for 1200
purposes of this section. 1201

(3) Credits against tax not covered by division (E) (1) or 1202
(2) of this section shall be apportioned equitably among persons 1203
in the manner in which the tax is apportioned among them. 1204

(F) Any additional estate tax that is due because a 1205
qualified heir has disposed of qualified farm property in a 1206
manner not authorized by law or ceased to use any part of the 1207
qualified farm property for a qualified use, shall be 1208
apportioned against the interest of the qualified heir. 1209

(G) If both a present interest and a future interest in 1210
property are involved, a tax shall be apportioned entirely to 1211
the principal. This shall be the case even if the future 1212
interest qualifies for an estate tax charitable deduction, even 1213
if the holder of the present interest also has rights in the 1214
principal, and even if the principal is otherwise exempt from 1215
apportionment. 1216

(H) Penalties shall be apportioned in the same manner as a 1217
tax, and interest on tax shall be apportioned to the income of 1218
the estate or trust, unless a court directs a different 1219
apportionment of penalties or interest based on a finding that 1220
special circumstances make an apportionment as provided in this 1221

division inequitable. 1222

(I) If any part of an estate consists of property, the 1223
value of which is included in the gross estate of the decedent 1224
by reason of section 2044 of the "Internal Revenue Code of 1225
1986," 100 Stat. 2085, 26 N 2044, as amended, or of section 1226
5731.131 of the Revised Code, the estate is entitled to recover 1227
from the persons holding or receiving the property any amount by 1228
which the estate tax payable exceeds the estate tax that would 1229
have been payable if the value of the property had not been 1230
included in the gross estate of the decedent. This division does 1231
not apply if the decedent's will or another governing instrument 1232
provides otherwise and the will or instrument refers to either 1233
section mentioned in this division or to qualified terminable 1234
interest marital deduction property. 1235

Sec. 2127.012. (A) In addition to the other methods 1236
provided by law, a guardian of the estate may sell at public or 1237
private sale, grant options to sell, exchange, re-exchange, or 1238
otherwise dispose of any parcel of real estate belonging to the 1239
estate at any time, at prices, and upon terms that are 1240
consistent with this section, and may execute and deliver deeds 1241
and other instruments of conveyance if all of the following 1242
conditions are met: 1243

(1) The ward's spouse and all persons entitled to the next 1244
estate of inheritance from the ward in the real property give 1245
written consent to a power of sale for a particular parcel of 1246
real estate or to a power of sale for all the real estate 1247
belonging to the estate. Each consent to a power of sale 1248
provided for in this section shall be filed in the probate 1249
court. 1250

(2) Any sale under a power of sale authorized under this 1251

section shall be made at a price of at least eighty per cent of 1252
the appraised value, as set forth in an approved inventory, if 1253
the real estate was appraised within two years prior to the 1254
filing of the consents. If the value of the real estate in an 1255
approved inventory was not determined by an appraisal, or the 1256
appraisal was completed more than two years prior to the 1257
filing of the consents, the real estate shall be appraised and a 1258
sale shall be made at a price of at least eighty per cent of the 1259
appraised value. 1260

(3) No power of sale provided for in this section is 1261
effective if the ward's spouse or any next of kin is a minor. No 1262
person may give the consent of the minor that is required by 1263
this section. 1264

(4) Upon filing the consents under this section, the 1265
guardian shall execute such bond or additional bond payable to 1266
the state in an amount that the court considers sufficient, 1267
having regard to the amount of real property to be sold, its 1268
appraised value, the amount of the original bond given by the 1269
guardian, and the distribution to be made of the proceeds 1270
arising from the sale. 1271

(B) A ward's spouse who is the guardian of the estate may 1272
sell real estate to self pursuant to this section. 1273

Sec. 2151.541. (A) (1) The juvenile judge may determine 1274
that, for the efficient operation of the juvenile court, 1275
additional funds are required to computerize the court, to make 1276
available computerized legal research services, or to do both. 1277
Upon making a determination that additional funds are required 1278
for either or both of those purposes, the judge shall do one of 1279
the following: 1280

(a) If the judge is clerk of the court, charge one 1281
additional fee not to exceed ~~three~~-six dollars on the filing of 1282
each cause of action or appeal under division (A), (Q), or (U) 1283
of section 2303.20 of the Revised Code; 1284

(b) If the clerk of the court of common pleas serves as 1285
the clerk of the juvenile court pursuant to section 2151.12 of 1286
the Revised Code, authorize and direct the clerk to charge one 1287
additional fee not to exceed ~~three~~-six dollars on the filing of 1288
each cause of action or appeal under division (A), (Q), or (U) 1289
of section 2303.20 of the Revised Code. 1290

(2) All moneys collected under division (A)(1) of this 1291
section shall be paid to the county treasurer. The treasurer 1292
shall place the moneys from the fees in a separate fund to be 1293
disbursed either upon an order of the juvenile judge, subject to 1294
an appropriation by the board of county commissioners, or upon 1295
an order of the juvenile judge, subject to the court making an 1296
annual report available to the public listing the use of all 1297
such funds, in an amount no greater than the actual cost to the 1298
court of procuring and maintaining computerization of the court, 1299
computerized legal research services, or both. 1300

(3) If the court determines that the funds in the fund 1301
described in division (A)(2) of this section are more than 1302
sufficient to satisfy the purpose for which the additional fee 1303
described in division (A)(1) of this section was imposed, the 1304
court may declare a surplus in the fund and, subject to an 1305
appropriation by the board of county commissioners, expend those 1306
surplus funds, or upon an order of the court, subject to the 1307
court making an annual report available to the public listing 1308
the use of all such funds, expend those surplus funds, for other 1309
appropriate technological expenses of the court. 1310

(B) (1) If the juvenile judge is the clerk of the juvenile court, the judge may determine that, for the efficient operation of the juvenile court, additional funds are required to make technological advances in or to computerize the clerk's office and, upon that determination, may charge an additional fee, not to exceed ~~ten~~ twenty dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B) (2) of this section, all moneys collected under this division shall be paid to the county treasurer to be disbursed, upon an order of the juvenile judge and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the juvenile court of procuring and maintaining technology and computer systems for the clerk's office.

(2) If the juvenile judge makes the determination described in division (B) (1) of this section, the board of county commissioners may issue one or more general obligation bonds for the purpose of procuring and maintaining the technology and computer systems for the office of the clerk of the juvenile court. In addition to the purposes stated in division (B) (1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to this division as they become due. General obligation bonds issued pursuant to this division are Chapter 133. securities.

Sec. 2153.081. (A) (1) The juvenile judges may determine that, for the efficient operation of their court, additional

funds are required to computerize the court, to make available 1342
computerized legal research services, or both. Upon making a 1343
determination that additional funds are required for either or 1344
both of those purposes, the judges shall authorize and direct 1345
the clerk or a deputy clerk of the court to charge one 1346
additional fee not to exceed ~~three~~six dollars on the filing of 1347
each cause of action or appeal under division (A), (Q), or (U) 1348
of section 2303.20 of the Revised Code. 1349

(2) All moneys collected under division (A)(1) of this 1350
section shall be paid to the county treasurer. The treasurer 1351
shall place the moneys from the fees in a separate fund to be 1352
disbursed, upon an order of the juvenile judges, in an amount no 1353
greater than the actual cost to the court of procuring and 1354
maintaining computer systems for the clerk's office, 1355
computerized legal research services, or both. 1356

(3) If the court determines that the funds in the fund 1357
described in division (A)(2) of this section are more than 1358
sufficient to satisfy the purpose for which the additional fee 1359
described in division (A)(1) of this section was imposed, the 1360
court may declare a surplus in the fund and expend those surplus 1361
funds for other appropriate technological expenses of the court. 1362

(B)(1) The juvenile judges may determine that, for the 1363
efficient operation of their court, additional funds are 1364
required to make technological advances in or to computerize the 1365
office of the clerk of the juvenile court and, upon that 1366
determination, may authorize and direct the clerk or a deputy 1367
clerk of the court to charge an additional fee, not to exceed 1368
~~ten~~twenty dollars, on the filing of each cause of action or 1369
appeal, on the filing, docketing, and endorsing of each 1370
certificate of judgment, or on the docketing and indexing of 1371

each aid in execution or petition to vacate, revive, or modify a 1372
judgment under divisions (A), (P), (Q), (T), and (U) of section 1373
2303.20 of the Revised Code. Subject to division (B)(2) of this 1374
section, all moneys collected under this division shall be paid 1375
to the county treasurer to be disbursed, upon an order of the 1376
juvenile judges and subject to appropriation by the board of 1377
county commissioners, in an amount no greater than the actual 1378
cost to the juvenile court of procuring and maintaining 1379
technology and computer systems for the clerk's office. 1380

(2) If the juvenile judges make the determination 1381
described in division (B)(1) of this section, the board of 1382
county commissioners may issue one or more general obligation 1383
bonds for the purpose of procuring and maintaining the 1384
technology and computer systems for the office of the clerk of 1385
the juvenile court. In addition to the purposes stated in 1386
division (B)(1) of this section for which the moneys collected 1387
under that division may be expended, the moneys additionally may 1388
be expended to pay debt charges on and financing costs related 1389
to any general obligation bonds issued pursuant to this division 1390
as they become due. General obligation bonds issued pursuant to 1391
this division are Chapter 133. securities. 1392

Sec. 2301.031. (A)(1) The domestic relations judges of a 1393
domestic relations division created by section 2301.03 of the 1394
Revised Code may determine that, for the efficient operation of 1395
their division, additional funds are required to computerize the 1396
division, to make available computerized legal research 1397
services, or both. Upon making a determination that additional 1398
funds are required for either or both of those purposes, the 1399
judges shall do one of the following: 1400

(a) Authorize and direct the clerk or a deputy clerk of 1401

the division to charge one additional fee not to exceed ~~three-~~ 1402
six dollars on the filing of each cause of action or appeal 1403
under division (A), (Q), or (U) of section 2303.20 of the 1404
Revised Code; 1405

(b) If the clerk of the court of common pleas serves as 1406
the clerk of the division, authorize and direct the clerk of the 1407
court of common pleas to charge one additional fee not to exceed 1408
~~three-~~six dollars on the filing of each cause of action or 1409
appeal under division (A), (Q), or (U) of section 2303.20 of the 1410
Revised Code. 1411

(2) All moneys collected under division (A) (1) of this 1412
section shall be paid to the county treasurer. The treasurer 1413
shall place the moneys from the fees in a separate fund to be 1414
disbursed either upon an order of the domestic relations judges, 1415
subject to an appropriation by the board of county 1416
commissioners, or upon an order of the domestic relations judge, 1417
subject to the court making an annual report available to the 1418
public listing the use of all such funds, in an amount no 1419
greater than the actual cost to the division of procuring and 1420
maintaining computerization of the court, computerized legal 1421
research services, or both. 1422

(3) If the court determines that the funds in the fund 1423
described in division (A) (2) of this section are more than 1424
sufficient to satisfy the purpose for which the additional fee 1425
described in division (A) (1) of this section was imposed, the 1426
court may declare a surplus in the fund and, subject to an 1427
appropriation by the board of county commissioners, expend those 1428
surplus funds, or upon an order of the court, subject to the 1429
court making an annual report available to the public listing 1430
the use of all such funds, expend those surplus funds, for other 1431

appropriate technological expenses of the court. 1432

(B) (1) If the clerk of the court of common pleas is not 1433
serving as the clerk of a juvenile or domestic relations 1434
division created by section 2301.03 of the Revised Code, the 1435
juvenile or domestic relations judges may determine that, for 1436
the efficient operation of their division, additional funds are 1437
required to make technological advances in or to computerize the 1438
office of the clerk of their division and, upon that 1439
determination, may authorize and direct the clerk or a deputy 1440
clerk of their division to charge an additional fee, not to 1441
exceed ~~ten~~ twenty dollars, on the filing of each cause of action 1442
or appeal, on the filing, docketing, and endorsing of each 1443
certificate of judgment, or on the docketing and indexing of 1444
each aid in execution or petition to vacate, revive, or modify a 1445
judgment under divisions (A), (P), (Q), (T), and (U) of section 1446
2303.20 of the Revised Code. Subject to division (B) (2) of this 1447
section, all moneys collected under this division shall be paid 1448
to the county treasurer to be disbursed, upon an order of the 1449
juvenile or domestic relations judges and subject to 1450
appropriation by the board of county commissioners, in an amount 1451
no greater than the actual cost to the juvenile or domestic 1452
relations division of procuring and maintaining technology and 1453
computer systems for the clerk's office. 1454

(2) If juvenile or domestic relations judges make the 1455
determination described in division (B) (1) of this section, the 1456
board of county commissioners may issue one or more general 1457
obligation bonds for the purpose of procuring and maintaining 1458
the technology and computer systems for the office of the clerk 1459
of the juvenile or domestic relations division. In addition to 1460
the purposes stated in division (B) (1) of this section for which 1461
the moneys collected under that division may be expended, the 1462

moneys additionally may be expended to pay debt charges on and 1463
financing costs related to any general obligation bonds issued 1464
pursuant to this division as they become due. General obligation 1465
bonds issued pursuant to this division are Chapter 133. 1466
securities. 1467

Sec. 4505.10. (A) In the event of the transfer of 1468
ownership of a motor vehicle by operation of law, as upon 1469
inheritance, devise, bequest, order in bankruptcy, insolvency, 1470
replevin, or execution sale, a motor vehicle is sold to satisfy 1471
storage or repair charges, or repossession is had upon default 1472
in performance of the terms of a security agreement as provided 1473
in Chapter 1309. of the Revised Code and the secured party has 1474
notified the debtor as required by division (B) of section 1475
1309.611 of the Revised Code, a clerk of a court of common 1476
pleas, upon the surrender of the prior certificate of title or 1477
the manufacturer's or importer's certificate, or, when that is 1478
not possible, upon presentation of satisfactory proof to the 1479
clerk of ownership and rights of possession to the motor 1480
vehicle, and upon payment of the fee prescribed in section 1481
4505.09 of the Revised Code and presentation of an application 1482
for certificate of title, may issue to the applicant a 1483
certificate of title to the motor vehicle. Only an affidavit by 1484
the person or agent of the person to whom possession of the 1485
motor vehicle has passed, setting forth the facts entitling the 1486
person to the possession and ownership, together with a copy of 1487
the journal entry, court order, or instrument upon which the 1488
claim of possession and ownership is founded, is satisfactory 1489
proof of ownership and right of possession. If the applicant 1490
cannot produce that proof of ownership, the applicant may apply 1491
directly to the registrar of motor vehicles and submit the 1492
evidence the applicant has, and the registrar, if the registrar 1493

finds the evidence sufficient, then may authorize a clerk to 1494
issue a certificate of title. If the registrar finds the 1495
evidence insufficient, the applicant may petition the court of 1496
common pleas for a court order ordering the clerk to issue a 1497
certificate of title. The court shall grant or deny the petition 1498
based on the sufficiency of the evidence presented to the court. 1499
If, from the records in the office of the clerk involved, there 1500
appears to be any lien on the motor vehicle, the certificate of 1501
title shall contain a statement of the lien unless the 1502
application is accompanied by proper evidence of its extinction. 1503

(B) A clerk shall transfer a decedent's interest in one or 1504
~~two more~~ automobiles to the surviving spouse of the decedent, as 1505
provided in section 2106.18 of the Revised Code, upon receipt of 1506
the title or titles. An affidavit executed by the surviving 1507
spouse shall be submitted to the clerk with the title or titles. 1508
The affidavit shall give the date of death of the decedent, 1509
shall state that each automobile for which the decedent's 1510
interest is to be so transferred is not disposed of by 1511
testamentary disposition, and shall provide an approximate value 1512
for each automobile selected to be transferred by the surviving 1513
spouse. The affidavit shall also contain a description for each 1514
automobile for which the decedent's interest is to be so 1515
transferred. The transfer does not affect any liens upon any 1516
automobile for which the decedent's interest is so transferred. 1517

(C) Upon the death of one of the persons who have 1518
established joint ownership with right of survivorship under 1519
section 2131.12 of the Revised Code in a motor vehicle, and upon 1520
presentation to a clerk of the title and the certificate of 1521
death of the decedent, the clerk shall transfer title to the 1522
motor vehicle to the survivor. The transfer does not affect any 1523
liens upon any motor vehicle so transferred. 1524

(D) Upon the death of the owner of a motor vehicle 1525
designated in beneficiary form under section 2131.13 of the 1526
Revised Code, upon application for a certificate of title by the 1527
transfer-on-death beneficiary or beneficiaries designated 1528
pursuant to that section, and upon presentation to the clerk of 1529
the certificate of title and the certificate of death of the 1530
decedent, the clerk shall transfer the motor vehicle and issue a 1531
certificate of title to the transfer-on-death beneficiary or 1532
beneficiaries. The transfer does not affect any liens upon the 1533
motor vehicle so transferred. 1534

Sec. 5801.10. (A) As used in this section, "creditor" 1535
means any of the following: 1536

(1) A person holding a debt or security for a debt entered 1537
into by a trustee on behalf of the trust; 1538

(2) A person holding a debt secured by one or more assets 1539
of the trust; 1540

(3) A person having a claim against the trustee or the 1541
assets of the trust under section 5805.06 of the Revised Code; 1542

(4) A person who has attached through legal process a 1543
beneficiary's interest in the trust. 1544

(B) (1) Subject to division (B) (2) of this section, the 1545
parties to an agreement under this section shall be any two or 1546
more of the following, or their representatives under the 1547
representation provisions of Chapter 5803. of the Revised Code, 1548
except that only the settlor and any trustee are required to be 1549
parties to an amendment of any revocable trust: 1550

(a) The settlor if living and if no adverse income or 1551
transfer tax results would arise from the settlor's 1552
participation; 1553

(b) The beneficiaries;	1554
(c) The currently serving trustees;	1555
(d) Creditors, if their interest is to be affected by the agreement.	1556 1557
(2) In addition to the parties to an agreement under division (B)(1) of this section, the parties shall include the attorney general if an agreement described in division (C)(7) of this section is being made and either of the following applies:	1558 1559 1560 1561
(a) An organization with one or more purposes that are described in division (A) of section 5804.05 of the Revised Code is a beneficiary.	1562 1563 1564
(b) The trust is a charitable trust.	1565
(C) The persons specified in division (B) of this section may by written instrument enter into an agreement with respect to any matter concerning the construction of, administration of, or distributions under the terms of the trust, the investment of income or principal held by the trustee, or other matters. The agreement may not effect a termination of the trust before the date specified for the trust's termination in the terms of the trust, change the interests of the beneficiaries in the trust except as necessary to effect a modification described in division (C)(5), (6), or (7) of this section, or include terms and conditions that could not be properly approved by the court under Chapters 5801. to 5811. of the Revised Code or other applicable law. The invalidity of any provision of the agreement does not affect the validity of other provisions of the agreement. Matters that may be resolved by a private settlement agreement include, but are not limited to, all of the following:	1566 1567 1568 1569 1570 1571 1572 1573 1574 1575 1576 1577 1578 1579 1580 1581
(1) Determining classes of creditors, beneficiaries,	1582

heirs, next of kin, or other persons;	1583
(2) Resolving disputes arising out of the administration	1584
or distribution under the terms of the trust, including disputes	1585
over the construction of the language of the trust instrument or	1586
construction of the language of other writings that affect the	1587
terms of the trust;	1588
(3) Granting to the trustee necessary or desirable powers	1589
not granted in the terms of the trust or otherwise provided by	1590
law, to the extent that those powers either are not inconsistent	1591
with the express provisions or purposes of the terms of the	1592
trust or, if inconsistent with the express provisions or	1593
purposes of the terms of the trust, are necessary for the due	1594
administration of the terms of the trust;	1595
(4) Modifying the terms of the trust, if the modification	1596
is not inconsistent with any material purpose of the trust;	1597
(5) Modifying the terms of the trust in the manner	1598
required to qualify the gift under the terms of the trust for	1599
the charitable estate or gift tax deduction permitted by federal	1600
law, including the addition of mandatory governing instrument	1601
requirements for a charitable remainder trust as required by the	1602
Internal Revenue Code and regulations promulgated under it in	1603
any case in which the parties interested in the trust have	1604
submitted written agreements to the proposed changes or written	1605
disclaimer of interest;	1606
(6) Modifying the terms of the trust in the manner	1607
required to qualify any gift under the terms of the trust for	1608
the estate tax marital deduction available to noncitizen	1609
spouses, including the addition of mandatory governing	1610
instrument requirements for a qualified domestic trust under	1611

section 2056A of the Internal Revenue Code and regulations 1612
promulgated under it in any case in which the parties interested 1613
in the trust have submitted written agreements to the proposed 1614
changes or written disclaimer of interest; 1615

(7) Construing or modifying the terms of a trust that 1616
refer to the federal estate tax, federal generation-skipping 1617
transfer tax, or Ohio estate tax, or that contain a division of 1618
property based on the imposition or amount of one or more of 1619
those taxes, to give effect to the intent of the settlor; 1620

(8) Resolving any other matter that arises under Chapters 1621
5801. to 5811. of the Revised Code. 1622

(D) No agreement shall be entered into under this section 1623
affecting the rights of a creditor without the creditor's 1624
consent or affecting the collection rights of federal, state, or 1625
local taxing authorities. 1626

(E) Any agreement entered into under this section that 1627
complies with the requirements of division (C) of this section 1628
shall be final and binding on the parties to the agreement or 1629
persons represented by the parties to the agreement whether by 1630
reason of Chapter 5803. of the Revised Code or otherwise, and 1631
their heirs, successors, and assigns, but shall have no effect 1632
on any trustee, settlor, beneficiary, or creditor who is not a 1633
party to the agreement or is not represented by a party to the 1634
agreement. 1635

(F) Notwithstanding anything in this section, in division 1636
(D) of section 5803.03 of the Revised Code, or in any other rule 1637
of law to the contrary, a trustee serving under the terms of the 1638
trust shall only represent its own individual or corporate 1639
interests in negotiating or entering into an agreement subject 1640

to this section. No trustee serving under the terms of the trust 1641
shall be considered to represent any settlor, beneficiary, or 1642
the interests of any settlor or beneficiary in negotiating or 1643
entering into an agreement subject to this section. 1644

(G) Any party to a private settlement agreement entered 1645
into under this section may request the court to approve the 1646
agreement, to determine whether the representation as provided 1647
in Chapter 5803. of the Revised Code was adequate, and to 1648
determine whether the agreement contains terms and conditions 1649
the court could have properly approved. 1650

(H) If an agreement entered into under this section 1651
contains a provision requiring binding arbitration of any 1652
disputes arising under the agreement, the provision is 1653
enforceable. 1654

(I) Nothing in this section affects any of the following: 1655

(1) The right of a beneficiary to disclaim under section 1656
5815.36 of the Revised Code; 1657

(2) The termination or modification of a trust under 1658
section 5804.10, 5804.11, 5804.12, 5804.13, 5804.14, 5804.15, or 1659
5804.16 of the Revised Code; 1660

(3) The ability of a trustee to divide or consolidate a 1661
trust under section 5804.17 of the Revised Code; 1662

(4) The power of the trustee to make distributions 1663
pursuant to section 5808.18 of the Revised Code. 1664

(J) Nothing in this section restricts or limits the 1665
jurisdiction of any court to dispose of matters not covered by 1666
agreements under this section or to supervise the acts of 1667
trustees appointed by that court. 1668

(K) This section shall be liberally construed to favor the validity and enforceability of agreements entered into under it.

(L) A trustee serving under the trust instrument is not liable to any third person arising from any loss due to that trustee's actions or inactions taken or omitted in good faith reliance on the terms of an agreement entered into under this section.

(M) Subject to divisions (B) (2) and (C) (7) of this section, this section does not apply to any of the following:

(1) A charitable trust that has one or more charitable organizations as qualified beneficiaries;

(2) A charitable trust the terms of which authorize or direct the trustee to distribute trust income or principal to one or more charitable organizations to be selected by the trustee, or for one or more charitable purposes described in division (A) of section 5804.05 of the Revised Code, if any of the following apply:

(a) The distributions may be made on the date that an agreement under this section would be entered into.

(b) The distributions could be made on the date that an agreement under this section would be entered into if the interests of the current beneficiaries of the trust terminated on that date, but the termination of those interests would not cause the trust to terminate.

(c) The distributions could be made on the date that an agreement under this section would be entered into if the trust terminated on that date.

(3) An agreement pursuant to section 109.232 of the

Revised Code. 1697

(N) This section does not prohibit some or all of the 1698
persons who could enter into an agreement under this section 1699
from entering into agreements that are not described in this 1700
section and are governed by other law, including the common law. 1701
Nothing in this section limits or negates any consents, 1702
releases, or ratifications, whether under section 5810.09 of the 1703
Revised Code or otherwise, relating to any agreement described 1704
in this section or governed by other law. 1705

Sec. 5802.04. An action brought under Chapters 5801. to 1706
5811. of the Revised Code is a civil action subject to the Rules 1707
of Civil Procedure, and unless it involves a testamentary or 1708
other trust that already is subject to court supervision, is 1709
commenced by filing a complaint. 1710

Sec. 5803.02. To the extent there is no conflict of 1711
interest between the holder of a general testamentary power of 1712
appointment and the persons represented with respect to the 1713
particular question or dispute, the holder may represent and 1714
bind persons whose interests, as permissible appointees, takers 1715
in default, or otherwise, are subject to the power. To the 1716
extent there is no conflict of interest between the holder of a 1717
limited testamentary power of appointment or a presently 1718
exercisable limited power of appointment and the persons 1719
represented with respect to the particular question or dispute, 1720
the holder may also represent and bind persons whose interests 1721
as possible appointees are subject to the power. The rights of 1722
the holder of a presently exercisable general power of 1723
appointment are governed by section 5806.03 of the Revised Code. 1724

Sec. 5804.02. (A) A trust is created only if all of the 1725
following apply: 1726

- (1) ~~The Subject to division (F) of this section, the~~ 1727
settlor of the trust, other than the settlor of a trust created 1728
by a court order, has capacity to create a trust. 1729
- (2) ~~The Subject to division (F) of this section, the~~ 1730
settlor of the trust, other than the settlor of a trust created 1731
by a court order, indicates an intention to create the trust. 1732
- (3) The trust has a definite beneficiary or is one of the 1733
following: 1734
- (a) A charitable trust; 1735
- (b) A trust for the care of an animal, as provided in 1736
section 5804.08 of the Revised Code; 1737
- (c) A trust for a noncharitable purpose, as provided in 1738
section 5804.09 of the Revised Code. 1739
- (4) The trustee has duties to perform. 1740
- (5) The same person is not the sole trustee and sole 1741
beneficiary. 1742
- (B) A beneficiary is definite if the beneficiary can be 1743
ascertained now or in the future, subject to any applicable rule 1744
against perpetuities. 1745
- (C) A power in a trustee or other person to select a 1746
beneficiary from an indefinite class is valid. If the power is 1747
not exercised within a reasonable time, the power fails, and the 1748
property subject to the power passes to the persons who would 1749
have taken the property had the power not been conferred. 1750
- (D) A trust is valid regardless of the existence, size, or 1751
character of the corpus of the trust. This division applies to 1752
any trust instrument that was executed prior to, or is executed 1753

on or after, January 1, 2007. 1754

(E) A trust is not invalid because a person, including, 1755
but not limited to, the creator of the trust, is or may become 1756
the sole trustee and the sole holder of the present beneficial 1757
enjoyment of the corpus of the trust, provided that one or more 1758
other persons hold a vested, contingent, or expectant interest 1759
relative to the enjoyment of the corpus of the trust upon the 1760
cessation of the present beneficial enjoyment. A merger of the 1761
legal and equitable titles to the corpus of a trust described in 1762
this division does not occur in its creator, and, 1763
notwithstanding any contrary provision of Chapter 2107. of the 1764
Revised Code, the trust is not a testamentary trust that is 1765
required to comply with that chapter in order for its corpus to 1766
be legally distributed to other beneficiaries in accordance with 1767
the provisions of the trust upon the cessation of the present 1768
beneficial enjoyment. This division applies to any trust that 1769
satisfies the provisions of this division, whether the trust was 1770
executed prior to, on, or after October 10, 1991. 1771

(F) An agent under a power of attorney may create a trust 1772
for the principal, whether or not the principal has capacity to 1773
create the trust and indicates an intention to create the trust, 1774
but only as provided in sections 1337.21 to 1337.64 of the 1775
Revised Code, including sections 1337.42 and 1337.58 of the 1776
Revised Code and their limitations on creation of trusts and on 1777
gifts of property of the principal and the duty of the agent to 1778
attempt to preserve the principal's estate plan. 1779

Sec. 5808.16. Without limiting the authority conferred by 1780
section 5808.15 of the Revised Code, a trustee may do all of the 1781
following: 1782

(A) Collect trust property and accept or reject additions 1783

to the trust property from a settlor or any other person;	1784
(B) Acquire or sell property, for cash or on credit, at public or private sale;	1785 1786
(C) Exchange, partition, or otherwise change the character of trust property;	1787 1788
(D) Deposit trust money in an account in a regulated financial-service institution;	1789 1790
(E) Borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;	1791 1792 1793
(F) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;	1794 1795 1796 1797 1798 1799 1800
(G) With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to do any of the following:	1801 1802 1803
(1) Vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;	1804 1805 1806
(2) Hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;	1807 1808 1809
(3) Pay calls, assessments, and other sums chargeable or accruing against the securities and sell or exercise stock	1810 1811

subscription or conversion rights;	1812
(4) Deposit the securities with a depository or other	1813
regulated financial-service institution.	1814
(H) With respect to an interest in real property,	1815
construct, or make ordinary or extraordinary repairs to,	1816
alterations to, or improvements in, buildings or other	1817
structures, demolish improvements, raze existing or erect new	1818
party walls or buildings, subdivide or develop land, dedicate	1819
land to public use or grant public or private easements, and	1820
make or vacate plats and adjust boundaries;	1821
(I) Enter into a lease for any purpose as lessor or	1822
lessee, including a lease or other arrangement for exploration	1823
and removal of natural resources, with or without the option to	1824
purchase or renew, for a period within or extending beyond the	1825
duration of the trust;	1826
(J) Grant an option involving a sale, lease, or other	1827
disposition of trust property or acquire an option for the	1828
acquisition of property, including an option exercisable beyond	1829
the duration of the trust, and exercise an option so acquired;	1830
(K) Insure the property of the trust against damage or	1831
loss and insure the trustee, the trustee's agents, and	1832
beneficiaries against liability arising from the administration	1833
of the trust;	1834
(L) Abandon or decline to administer property of no value	1835
or of insufficient value to justify its collection or continued	1836
administration;	1837
(M) With respect to possible liability for violation of	1838
environmental law, do any of the following:	1839

- (1) Inspect or investigate property the trustee holds or 1840
has been asked to hold, or property owned or operated by an 1841
organization in which the trustee holds or has been asked to 1842
hold an interest, for the purpose of determining the application 1843
of environmental law with respect to the property; 1844
- (2) Take action to prevent, abate, or otherwise remedy any 1845
actual or potential violation of any environmental law affecting 1846
property held directly or indirectly by the trustee, whether 1847
taken before or after the assertion of a claim or the initiation 1848
of governmental enforcement; 1849
- (3) Decline to accept property into trust or disclaim any 1850
power with respect to property that is or may be burdened with 1851
liability for violation of environmental law; 1852
- (4) Compromise claims against the trust that may be 1853
asserted for an alleged violation of environmental law; 1854
- (5) Pay the expense of any inspection, review, abatement, 1855
or remedial action to comply with environmental law. 1856
- (N) Pay or contest any claim, settle a claim by or against 1857
the trust, and release, in whole or in part, a claim belonging 1858
to the trust; 1859
- (O) Pay taxes, assessments, compensation of the trustee 1860
and of employees and agents of the trust, and other expenses 1861
incurred in the administration of the trust; 1862
- (P) Exercise elections with respect to federal, state, and 1863
local taxes; 1864
- (Q) Select a mode of payment under any employee benefit or 1865
retirement plan, annuity, or life insurance policy payable to 1866
the trustee, exercise rights under any employee benefit or 1867

retirement plan, annuity, or life insurance policy payable to 1868
the trustee, including the right to indemnification for expenses 1869
and against liabilities, and take appropriate action to collect 1870
the proceeds; 1871

(R) Make loans out of trust property, including loans to a 1872
beneficiary on terms and conditions the trustee considers to be 1873
fair and reasonable under the circumstances, and the trustee has 1874
a lien on future distributions for repayment of those loans; 1875

(S) Guarantee loans made by others to the settlor of a 1876
revocable trust and, if the settlor so directs, guarantee loans 1877
made by others to a third party and mortgage, pledge, or grant a 1878
security interest in the property of a revocable trust to secure 1879
the payment of loans made by others to the settlor of the 1880
revocable trust and, if the settlor so directs, loans made by 1881
others to a third party; 1882

(T) Appoint a trustee to act in another jurisdiction with 1883
respect to trust property located in the other jurisdiction, 1884
confer upon the appointed trustee all of the powers and duties 1885
of the appointing trustee, require that the appointed trustee 1886
furnish security, and remove any trustee so appointed; 1887

(U) Pay an amount distributable to a beneficiary who is 1888
under a legal disability or who the trustee reasonably believes 1889
is incapacitated, by paying it directly to the beneficiary or 1890
applying it for the beneficiary's benefit, or by doing any of 1891
the following: 1892

(1) Paying it to the beneficiary's guardian of the estate, 1893
or, if the beneficiary does not have a guardian of the estate, 1894
the beneficiary's guardian of the person; 1895

(2) Paying it to the beneficiary's custodian under 1896

sections 5814.01 to 5814.09 <u>5814.10</u> of the Revised Code and, for	1897
that purpose, creating a custodianship;	1898
(3) If the trustee does not know of a guardian of the	1899
person or estate, or custodian, paying it to an adult relative	1900
or other person having legal or physical care or custody of the	1901
beneficiary, to be expended on the beneficiary's behalf;	1902
(4) Managing it as a separate fund on the beneficiary's	1903
behalf, subject to the beneficiary's continuing right to	1904
withdraw the distribution.	1905
(V) On distribution of trust property or the division or	1906
termination of a trust, make distributions in divided or	1907
undivided interests, allocate particular assets in proportionate	1908
or disproportionate shares, value the trust property for those	1909
purposes, and adjust for resulting differences in valuation;	1910
(W) Resolve a dispute concerning the interpretation of the	1911
trust or its administration by mediation, arbitration, or other	1912
procedure for alternative dispute resolution;	1913
(X) Prosecute or defend an action, claim, or judicial	1914
proceeding in any jurisdiction to protect trust property and the	1915
trustee in the performance of the trustee's duties;	1916
(Y) Sign and deliver contracts and other instruments that	1917
are useful to achieve or facilitate the exercise of the	1918
trustee's powers;	1919
(Z) On termination of the trust, exercise the powers	1920
appropriate to wind up the administration of the trust and	1921
distribute the trust property to the persons entitled to it;	1922
(AA) Employ agents, attorneys, accountants, investment	1923
advisors, and other professionals.	1924

Sec. 5812.32. (A) As used in this section, ~~"payment"~~: 1925

(1) "Payment" means a payment that a trustee may receive 1926
over a fixed number of years or during the life of one or more 1927
individuals because of services rendered or property transferred 1928
to the payer in exchange for future payments. "Payment" includes 1929
a payment made in money or property from the payer's general 1930
assets or from a separate fund created by the payer, ~~including.~~ 1931
For purposes of divisions (D), (E), (F), and (G) of this 1932
section, "payment" also includes any payment made from any 1933
separate fund regardless of the reason for the payment. 1934

(2) "Separate fund" includes a private or commercial 1935
annuity, an individual retirement account, or a pension, profit- 1936
sharing, stock-bonus, or stock-ownership plan. 1937

(B) To the extent that a payment is characterized as 1938
~~interest or,~~ a dividend, or a payment made in lieu of interest 1939
or a dividend, a trustee shall allocate ~~it~~ the payment to 1940
income. The trustee shall allocate to principal the balance of 1941
the payment and any other payment received in the same 1942
accounting period that is not characterized as interest, a 1943
dividend, or an equivalent payment. 1944

(C) If no part of a payment is characterized as interest, 1945
a dividend, or an equivalent payment, and all or part of the 1946
payment is required to be made, a trustee shall allocate to 1947
income ten per cent of the part that is required to be made 1948
during the accounting period and the balance to principal. If no 1949
part of a payment is required to be made or the payment received 1950
is the entire amount to which the trustee is entitled, the 1951
trustee shall allocate the entire payment to principal. For 1952
purposes of this division, a payment is not "required to be 1953
made" to the extent that it is made because the trustee 1954

exercises a right of withdrawal. 1955

~~(D) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than is provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction. Except as otherwise provided in division (E) of this section, divisions (F) and (G) of this section apply, and divisions (B) and (C) of this section do not apply, in determining the allocation of a payment made from a separate fund to either of the following:~~ 1956
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1959
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1961
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1964

(1) A trust for which an election to qualify for a marital deduction under section 2056(b)(7) of the Internal Revenue Code of 1986, 26 U.S.C. 2056(b)(7), as amended, has been made; 1965
1966
1967

(2) A trust that qualifies for the marital deduction under section 2056(b)(5) of the Internal Revenue Code of 1986, 26 U.S.C. 2056(b)(5), as amended. 1968
1969
1970

(E) Divisions (D), (F), and (G) of this section do not apply if and to the extent that the series of payments would, without the application of division (D) of this section, qualify for the marital deduction under section 2056(b)(7)(C) of the Internal Revenue Code of 1986, 26 U.S.C. 2056(b)(7)(C), as amended. 1971
1972
1973
1974
1975
1976

(F) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to sections 5812.01 to 5812.52 of the Revised Code. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the 1977
1978
1979
1980
1981
1982
1983

extent of the internal income of the separate fund and 1984
distribute that amount to the surviving spouse. The trustee 1985
shall allocate the balance of the payment to principal. Upon 1986
request of the surviving spouse, the trustee shall allocate 1987
principal to income to the extent the internal income of the 1988
separate fund exceeds payments made from the separate fund to 1989
the trust during the accounting period. 1990

(G) If a trustee cannot determine the internal income of a 1991
separate fund but can determine the value of the separate fund, 1992
the internal income of the separate fund is deemed to equal four 1993
per cent of the fund's value according to the most recent 1994
statement of value preceding the beginning of the accounting 1995
period. If the trustee can determine neither the internal income 1996
of the separate fund nor the value of the fund, the internal 1997
income of the fund is deemed to equal the product of the 1998
interest rate and the present value of the expected future 1999
payments, as determined under section 7520 of the Internal 2000
Revenue Code of 1986, 26 U.S.C. 7520, as amended, for the month 2001
preceding the accounting period for which the computation is 2002
made. 2003

(H) This section does not apply to ~~payments~~ a payment to 2004
which section 5812.33 of the Revised Code applies. 2005

(I)(1) This section applies to a trust described in 2006
division (D) of this section on and after any of the following 2007
dates: 2008

(a) If the trust has not received a payment from a 2009
separate fund on the effective date of the amendment of this 2010
section, the date of the decedent's death; 2011

(b) If the trust receives the first payment from any and 2012

all separate funds payable to the trust in the calendar year 2013
beginning January 1 of the year in which the amendment of this 2014
section takes effect, the date of the decedent's death; 2015

(c) If the trust is not described in division (I)(1)(a) or 2016
(b) of this section, January 1 of the year in which the 2017
amendment of this section takes effect. 2018

(2) For purposes of division (I)(1) of this section, 2019
"decedent" means the individual by reason of whose death the 2020
trust may receive a payment from the separate fund. 2021

Sec. 5812.46. (A) A tax required to be paid by a trustee 2022
based on receipts allocated to income shall be paid from income. 2023

(B) A tax required to be paid by a trustee based on 2024
receipts allocated to principal shall be paid from principal, 2025
even if the tax is called an income tax by the taxing authority. 2026

(C) A tax required to be paid by a trustee on the trust's 2027
share of an entity's taxable income shall be paid 2028
~~proportionately~~ as follows: 2029

(1) From income, to the extent that receipts from the 2030
entity are allocated only to income; 2031

(2) From principal, ~~as follows:~~ 2032

~~(a) To~~ to the extent that receipts from the entity are 2033
allocated only to principal; ~~and~~ 2034

~~(b) To~~ (3) Proportionately from principal and income, to 2035
the extent that receipts from the entity are allocated to both 2036
income and principal; 2037

(4) From principal, to the extent that the ~~trust's share~~ 2038
of the entity's taxable income ~~tax~~ exceeds the total receipts 2039

~~described in divisions (C) (1) and (2) (a) of this section from~~ 2040
~~the entity.~~ 2041

~~(D) For purposes of this section, receipts allocated to~~ 2042
~~principal or income shall be reduced by the amount distributed~~ 2043
~~to a beneficiary from principal or income for which the trust~~ 2044
~~receives a deduction in calculating the tax. After applying~~ 2045
~~divisions (A) to (C) of this section, the trustee shall adjust~~ 2046
~~income or principal receipts to the extent that the trust's~~ 2047
~~taxes are reduced because the trust receives a deduction for~~ 2048
~~payments made to a beneficiary.~~ 2049

Sec. 5812.51. (A) Sections 5812.01 to 5812.52 of the 2050
Revised Code may be cited as the "uniform principal and income 2051
act~~(1997)~~." 2052

(B) In applying and construing the "uniform principal and 2053
income act~~(1997)~~,"~~,"~~ consideration shall be given to the need to 2054
promote uniformity of the law with respect to its subject matter 2055
among states that enact the "uniform principal and income 2056
act~~(1997)~~."~~,"~~ 2057

Sec. 5814.01. As used in sections 5814.01 to ~~5814.09~~ 2058
5814.10 of the Revised Code, unless the context otherwise 2059
requires: 2060

(A) "Benefit plan" means any plan of an employer for the 2061
benefit of any employee, any plan for the benefit of any 2062
partner, or any plan for the benefit of a proprietor, and 2063
includes, but is not limited to, any pension, retirement, death 2064
benefit, deferred compensation, employment agency, stock bonus, 2065
option, or profit-sharing contract, plan, system, account, or 2066
trust. 2067

(B) "Broker" means a person that is lawfully engaged in 2068

the business of effecting transactions in securities for the 2069
account of others. A "broker" includes a financial institution 2070
that effects such transactions and a person who is lawfully 2071
engaged in buying and selling securities for the person's own 2072
account, through a broker or otherwise, as a part of a regular 2073
business. 2074

(C) "Court" means the probate court. 2075

(D) "The custodial property" includes: 2076

(1) All securities, money, life or endowment insurance 2077
policies, annuity contracts, benefit plans, real estate, 2078
tangible and intangible personal property, proceeds of a life or 2079
endowment insurance policy, an annuity contract, or a benefit 2080
plan, and other types of property under the supervision of the 2081
same custodian for the same minor as a consequence of a transfer 2082
or transfers made to the minor, a gift or gifts made to the 2083
minor, or a purchase made by the custodian for the minor, in a 2084
manner prescribed in sections 5814.01 to ~~5814.09~~5814.10 of the 2085
Revised Code; 2086

(2) The income from the custodial property; 2087

(3) The proceeds, immediate and remote, from the sale, 2088
exchange, conversion, investment, reinvestment, or other 2089
disposition of the securities, money, life or endowment 2090
insurance policies, annuity contracts, benefit plans, real 2091
estate, tangible and intangible personal property, proceeds of a 2092
life or endowment insurance policy, an annuity contract, or a 2093
benefit plan, other types of property, and income. 2094

(E) "Custodian" or "successor custodian" means a person so 2095
designated in a manner prescribed in sections 5814.01 to ~~5814.09~~ 2096
5814.10 of the Revised Code. 2097

(F) "Financial institution" means any bank, as defined in 2098
section 1101.01, any building and loan association, as defined 2099
in section 1151.01, any credit union as defined in section 2100
1733.01 of the Revised Code, and any federal credit union, as 2101
defined in the "Federal Credit Union Act," 73 Stat. 628 (1959), 2102
12 U.S.C.A. 1752, as amended. 2103

(G) "Guardian of the minor" includes the general guardian, 2104
guardian, tutor, or curator of the property, estate, or person 2105
of a minor. 2106

(H) "Issuer" means a person who places or authorizes the 2107
placing of the person's name on a security, other than as a 2108
transfer agent, to evidence that it represents a share, 2109
participation, or other interest in the person's property or in 2110
an enterprise, or to evidence the person's duty or undertaking 2111
to perform an obligation that is evidenced by the security, or 2112
who becomes responsible for or in place of any such person. 2113

(I) "Legal representative" of a person means the executor, 2114
administrator, general guardian, guardian, committee, 2115
conservator, tutor, or curator of the person's property or 2116
estate. 2117

(J) "Member of the minor's family" means a parent, 2118
stepparent, spouse, grandparent, brother, sister, uncle, or aunt 2119
of the minor, whether of the whole or half blood, or by 2120
adoption. 2121

(K) ~~"Minor"~~ (1) Except as provided in division (K) (2) of 2122
this section, "minor" means a person an individual who has not 2123
attained the age of twenty-one years. 2124

(2) When used with reference to the beneficiary for whose 2125
benefit custodial property is held or is to be held, "minor" 2126

means an individual who has not attained the age at which the 2127
custodian is required under section 5814.09 of the Revised Code 2128
to transfer the custodial property to the beneficiary. 2129

(L) "Security" includes any note, stock, treasury stock, 2130
common trust fund, bond, debenture, evidence of indebtedness, 2131
certificate of interest or participation in an oil, gas, or 2132
mining title or lease or in payments out of production under an 2133
oil, gas, or mining title or lease, collateral trust 2134
certificate, transferable share, voting trust certificate, or, 2135
in general, any interest or instrument commonly known as a 2136
security, or any certificate of interest or participation in, 2137
any temporary or interim certificate, receipt or certificate of 2138
deposit for, or any warrant or right to subscribe to or 2139
purchase, any of the foregoing. A "security" does not include a 2140
security of which the donor or transferor is the issuer. A 2141
security is in "registered form" when it specifies a person who 2142
is entitled to it or to the rights that it evidences and its 2143
transfer may be registered upon books maintained for that 2144
purpose by or on behalf of the issuer. 2145

(M) "Transfer" means a disposition, other than a gift, by 2146
a person who is eighteen years of age or older that creates 2147
custodial property under sections 5814.01 to ~~5814.09~~ 5814.10 of 2148
the Revised Code. 2149

(N) "Transfer agent" means a person who acts as 2150
authenticating trustee, transfer agent, registrar, or other 2151
agent for an issuer in the registration of transfers of its 2152
securities, in the issue of new securities, or in the 2153
cancellation of surrendered securities. 2154

(O) "Transferor" means a person who is eighteen years of 2155
age or older, who makes a transfer. 2156

(P) "Trust company" means a financial institution that is 2157
authorized to exercise trust powers. 2158

(Q) "Administrator" includes an "administrator with the 2159
will annexed." 2160

Sec. 5814.02. (A) A person who is eighteen years of age or 2161
older may, during the person's lifetime, make a gift or transfer 2162
of a security, money, a life or endowment insurance policy, an 2163
annuity contract, a benefit plan, real estate, tangible or 2164
intangible personal property, or any other property to, may 2165
designate as beneficiary of a life or endowment insurance 2166
policy, an annuity contract, or a benefit plan, or make a 2167
transfer by the irrevocable exercise of a power of appointment 2168
in favor of, a person who is a minor on the date of the gift or 2169
transfer: 2170

(1) If the subject of the gift or transfer is a security 2171
in registered form, by registering it in the name of the donor 2172
or transferor, another person who is eighteen years of age or 2173
older, or a trust company, followed, in substance, by the words: 2174
"as custodian for (name of minor) under the 2175
Ohio Transfers to Minors Act;" 2176

(2) If the subject of the gift or transfer is a security 2177
not in registered form, by delivering it to the donor or 2178
transferor, another person who is eighteen years of age or 2179
older, or a trust company, accompanied by a statement of a gift 2180
or transfer in the following form, in substance, signed by the 2181
donor or transferor and the person or trust company designated 2182
as custodian: 2183

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2184

I, (name of donor or transferor), 2185

hereby deliver to (name of custodian) as custodian 2186
for (name of minor) under the Ohio Transfers 2187
to Minors Act, the following security (ies): (insert an 2188
appropriate description of the security or securities delivered, 2189
sufficient to identify it or them). 2190

..... 2191
(signature of donor or transferor) 2192

..... (name of custodian) hereby acknowledges 2193
receipt of the above described security (ies) as custodian for 2194
the above minor under the Ohio Transfers to Minors Act. 2195

Dated: 2196
(signature of custodian)" 2197

(3) If the subject of the gift or transfer is money, by 2198
paying or delivering it to a broker, or a financial institution 2199
for credit to an account in the name of the donor or transferor, 2200
another person who is eighteen years of age or older, or a trust 2201
company, followed, in substance, by the words: "as custodian for 2202
..... (name of minor) under the Ohio Transfers to 2203
Minors Act." 2204

(4) If the subject of the gift or transfer is a life or 2205
endowment insurance policy, an annuity contract, or a benefit 2206
plan, by assigning the policy, contract, or plan to the donor or 2207
transferor, another person who is eighteen years of age or 2208
older, or a trust company, followed, in substance by the words: 2209
"as custodian for (name of minor) under the 2210
Ohio Transfers to Minors Act." 2211

(5) If the subject of the gift or transfer is an interest 2212
in real estate, by executing and delivering in the appropriate 2213
manner a deed, assignment, or similar instrument in the name of 2214

the donor or transferor, another person who is eighteen years of 2215
age or older, or a trust company, followed, in substance, by the 2216
words: "as custodian for (name of minor) under 2217
the Ohio Transfers to Minors Act." 2218

(6) If the subject of the gift or transfer is tangible 2219
personal property, by delivering it to the donor or transferor, 2220
another person who is eighteen years of age or older, or a trust 2221
company, accompanied by a statement of a gift or transfer in the 2222
following form, in substance, signed by the donor or transferor 2223
and the person or trust company designated as custodian: 2224

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2225

I, (name of donor or transferor), hereby 2226
deliver to (name of custodian) as custodian 2227
for (name of minor) under the Ohio Transfers 2228
to Minors Act, the following property: (insert an appropriate 2229
description of the property delivered, sufficient to identify 2230
it). 2231

..... 2232

(signature of donor or transferor) 2233

..... (name of custodian) hereby 2234
acknowledges receipt of the above described property as 2235
custodian for the above minor under the Ohio Transfers to Minors 2236
Act. 2237

Dated: 2238

(signature of custodian)" 2239

(7) If the subject of the gift or transfer is tangible 2240
personal property, title to which is evidenced by a certificate 2241
of title issued by a department or agency of a state or of the 2242
United States, by issuing title to the donor or transferor, 2243

another person who is eighteen years of age or older, or a trust 2244
company, accompanied by a statement of a gift or transfer in the 2245
following form, in substance: "as custodian 2246
for (name of minor) under the Ohio 2247
Transfers to Minors Act;" or by delivering the title to another 2248
person who is eighteen years of age or older or a trust company, 2249
endorsed to that person followed in substance by the following 2250
words: "as custodian for ~~.....~~ (name of minor) 2251
under the Ohio Transfers to Minors Act." 2252

(8) If the subject of the gift or transfer is the 2253
designation of a minor as beneficiary of a life or endowment 2254
insurance policy, an annuity contract, or a benefit plan, by 2255
designating as beneficiary of the policy, contract, or plan the 2256
donor or transferor, another person who is eighteen years of age 2257
or older, or a trust company, followed, in substance, by the 2258
words: "as custodian for (name of minor) 2259
under the Ohio Transfers to Minors Act." 2260

(9) If the subject of the gift or transfer is an 2261
irrevocable exercise of a power of appointment in favor of a 2262
minor or is an interest in any property that is not described in 2263
divisions (A) (1) to (8) of this section, by causing the 2264
ownership of the property to be transferred by any written 2265
document in the name of the donor or transferor, another person 2266
who is eighteen years of age or older, or a trust company, 2267
followed, in substance, by the words: "as custodian 2268
for (name of minor) under the Ohio Transfers 2269
to Minors Act." 2270

(B) Trustees, inter vivos or testamentary, executors, and 2271
administrators having authority to distribute or pay any trust 2272
or estate property to or for the benefit of a minor, or having 2273

authority to distribute or pay any trust or estate property to 2274
any other person for the benefit of a minor may, if authorized 2275
by a will or trust instrument, distribute or pay trust or estate 2276
property of any type mentioned in division (A) of this section 2277
in the manner and form provided in that division, and may name 2278
the custodian or successor custodian of the property if the will 2279
or trust instrument does not name an eligible custodian, or if 2280
the will or trust does not name an eligible successor custodian 2281
and the naming of a successor custodian is necessary. A person 2282
who is eighteen years of age or older, in the person's will or 2283
trust instrument, may provide that the fiduciary shall make any 2284
payment or distribution as provided in this division and may 2285
name the custodian and a successor custodian of the trust or 2286
estate property. As to any distribution or payment so made, the 2287
testator of a will, under the provisions of which a testamentary 2288
trust or estate is being administered, or the settlor of an 2289
inter vivos trust shall be deemed the donor or transferor. 2290

(C) Any gift, transfer, payment, or distribution that is 2291
made in a manner prescribed in division (A), (B), or (E) of this 2292
section may be made to only one minor and only one person may be 2293
the custodian. All gifts, transfers, payments, and distributions 2294
made by a person in a manner prescribed in sections 5814.01 to 2295
~~5814.09~~5814.10 of the Revised Code to the same custodian for 2296
the benefit of the same minor result in a single custodianship. 2297

(D) A donor or transferor who makes a gift or transfer to 2298
a minor in a manner prescribed in division (A) of this section 2299
and a trustee, executor, or administrator acting under division 2300
(B) or (E) of this section shall promptly do all things within 2301
the donor's, transferor's, trustee's, executor's, or 2302
administrator's power to put the subject of the gift or transfer 2303
in the possession and control of the custodian, but neither the 2304

donor's, transferor's, trustee's, executor's, or administrator's 2305
failure to comply with this division, nor the designation by the 2306
donor, transferor, trustee, executor, or administrator of an 2307
ineligible custodian, nor the renunciation by the person or 2308
trust company designated as custodian, affects the consummation 2309
of the gift or transfer. 2310

(E) If there is no will, or if a will, trust, or other 2311
governing instrument does not contain an authorization to make a 2312
transfer as described in this division, a trustee, executor, or 2313
administrator may make a transfer in a manner prescribed in 2314
division (A) of this section to self, another person who is 2315
eighteen years of age or older, or a trust company, as 2316
custodian, if all of the following apply: 2317

(1) Irrespective of the value of the property, the 2318
trustee, executor, or administrator considers the transfer to be 2319
in the best interest of the minor; 2320

(2) Irrespective of the value of the property, the 2321
transfer is not prohibited by or inconsistent with the 2322
applicable will, trust agreement, or other governing instrument; 2323

(3) If the value of the property exceeds ~~ten~~ twenty-five 2324
thousand dollars, the transfer is authorized by the appropriate 2325
court. 2326

(F) Except with respect to real property, a donor or 2327
transferor who makes a gift or transfer to a minor in a manner 2328
prescribed in division (A) of this section and a trustee, 2329
executor, or administrator acting under division (B) or (E) of 2330
this section may also designate one or more successor 2331
custodians, in substance, by adding to such designation the 2332
following words or words of similar import for the successor or 2333

successors designated: "In the event of the death or inability 2334
or unwillingness to serve of (name of 2335
custodian), or any successor custodian designated 2336
hereby, (name of first successor custodian), 2337
followed by (name of second successor 2338
custodian), in the order named, shall serve as successor 2339
custodian." 2340

Sec. 5814.03. (A) A gift or transfer made in a manner 2341
prescribed in sections 5814.01 to ~~5814.09~~5814.10 of the Revised 2342
Code, is irrevocable and conveys to the minor indefeasibly 2343
vested legal title to the security, money, life or endowment 2344
insurance policy, annuity contract, benefit plan, real estate, 2345
tangible or intangible personal property, or other property 2346
given or, subject to the right of the owner of the policy, 2347
contract, or benefit plan to change the beneficiary if the 2348
custodian is not the owner, to the proceeds of a life or 2349
endowment insurance policy, an annuity contract, or a benefit 2350
plan given, but no guardian of the minor has any right, power, 2351
duty, or authority with respect to the custodial property except 2352
as provided in sections 5814.01 to ~~5814.09~~5814.10 of the 2353
Revised Code. 2354

(B) By making a gift or transfer in a manner prescribed in 2355
sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code, the 2356
donor or transferor incorporates in the gift or transfer all the 2357
provisions of these sections and grants to the custodian, and to 2358
any issuer, transfer agent, financial institution, broker, or 2359
third person dealing with a person or trust company designated 2360
as custodian, the respective powers, rights, and immunities 2361
provided in these sections. 2362

Sec. 5814.04. (A) The custodian shall collect, hold, 2363

manage, invest, and reinvest the custodial property. 2364

(B) The custodian shall pay over to the minor for 2365
expenditure by the minor, or expend for the use or benefit of 2366
the minor, as much of or all the custodial property as the 2367
custodian considers advisable for the use and benefit of the 2368
minor in the manner, at the time or times, and to the extent 2369
that the custodian in the custodian's discretion considers 2370
suitable and proper, with or without court order, with or 2371
without regard to the duty or ability of the custodian or of any 2372
other person to support the minor or the minor's ability to do 2373
so, and with or without regard to any other income or property 2374
of the minor that may be applicable or available for any 2375
purpose. Any payment or expenditure that is made under this 2376
division is in addition to, is not a substitute for, and does 2377
not affect the obligation of any person to support the minor for 2378
whom the payment or expenditure is made. 2379

(C) The court, on the petition of a parent or guardian of 2380
the minor or of the minor, if the minor has attained the age of 2381
fourteen years, may order the custodian to pay over to the minor 2382
for expenditure by the minor or to expend as much of or all the 2383
custodial property as is necessary for the use and benefit of 2384
the minor. 2385

(D) (1) Except as provided in division (D) (2) of this 2386
section and in section 5814.09 of the Revised Code, to the 2387
extent that the custodial property is not so expended, the 2388
custodian shall deliver or pay the custodial property over to 2389
the minor on the minor's attaining the age of twenty-one years 2390
or, if the minor dies before attaining the age of twenty-one 2391
years, shall, upon the minor's death, deliver or pay the 2392
custodial property over to the estate of the minor. 2393

(2) If the donor or transferor, in the written instrument 2394
that makes or provides for the gift or transfer, directs the 2395
custodian to deliver or pay over the custodial property to the 2396
minor on the minor's attaining any age between eighteen and 2397
twenty-one, the custodian shall deliver or pay over the 2398
custodial property to the minor on the minor's attaining that 2399
age, or, if the minor dies before attaining that age, the 2400
custodian shall, upon the minor's death, deliver or pay the 2401
custodial property over to the estate of the minor. 2402

(E) The custodian, notwithstanding statutes restricting 2403
investments by fiduciaries, shall invest and reinvest the 2404
custodial property as would a prudent person of discretion and 2405
intelligence dealing with the property of another, except that 2406
the custodian may, in the discretion of the custodian and 2407
without liability to the minor or the estate of the minor, 2408
retain any custodial property received in a manner prescribed in 2409
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code. If a 2410
custodian has special skills or is named custodian on the basis 2411
of representations of special skills or expertise, the custodian 2412
is under a duty to use those skills or that expertise. 2413

(F) The custodian may sell, exchange, convert, or 2414
otherwise dispose of custodial property in the manner, at the 2415
time or times, for the price or prices, and upon the terms the 2416
custodian considers advisable. The custodian may vote in person 2417
or by general or limited proxy a security that is custodial 2418
property. The custodian may consent, directly or through a 2419
committee or other agent, to the reorganization, consolidation, 2420
merger, dissolution, or liquidation of an issuer of a security 2421
that is custodial property, and to the sale, lease, pledge, or 2422
mortgage of any property by or to such an issuer, and to any 2423
other action by such an issuer. The custodian may purchase any 2424

life or endowment insurance policy or annuity contract on the 2425
life of the minor or any member of the family of the minor and 2426
pay, from funds in the custodian's custody, any premiums on any 2427
life or endowment insurance policy or annuity contract held by 2428
the custodian as custodial property. The custodian may execute 2429
and deliver any and all instruments in writing that the 2430
custodian considers advisable to carry out any of the 2431
custodian's powers as custodian. 2432

(G) The custodian shall register each security that is 2433
custodial property and in registered form in the name of the 2434
custodian, followed, in substance, by the words: "as custodian 2435
for (name of minor) under the Ohio Transfers to 2436
Minors Act," or shall maintain each security that is custodial 2437
property and in registered form in an account with a broker or 2438
in a financial institution in the name of the custodian, 2439
followed, in substance, by the words: "as custodian 2440
for (name of minor) under the Ohio Transfers to 2441
Minors Act." A security held in account with a broker or in a 2442
financial institution in the name of the custodian may be held 2443
in the name of the broker or financial institution. A security 2444
that is custodial property and in registered form and that is 2445
held by a broker or in a financial institution in which the 2446
broker or financial institution does not have a lien for 2447
indebtedness due to it from a custodial account may not be 2448
pledged, lent, hypothecated, or disposed of except upon the 2449
specific instructions of the custodian. The custodian shall hold 2450
all money that is custodial property in an account with a broker 2451
or in a financial institution in the name of the custodian, 2452
followed, in substance, by the words: "as custodian 2453
for (name of minor) under the Ohio Transfers to 2454
Minors Act." The custodian shall hold all life or endowment 2455

insurance policies, annuity contracts, or benefit plans that are 2456
custodial property in the name of the custodian, followed, in 2457
substance, by the words "as custodian for (name 2458
of minor) under the Ohio Transfers to Minors Act." The custodian 2459
shall take title to all real estate that is custodial property 2460
in the name of the custodian, followed, in substance, by the 2461
words: "as custodian for (name of minor) under the 2462
Ohio Transfers to Minors Act." In the event one or more 2463
successor custodians have been designated by the donor, 2464
transferor, trustee, executor, or administrator pursuant to 2465
division (F) of section 5814.02 of the Revised Code or by the 2466
custodian pursuant to division (E) of section 5814.07 of the 2467
Revised Code, each registration, account, policy, contract, 2468
plan, or title in the name of the custodian set forth in this 2469
division shall include such designation of successor custodian 2470
or custodians. The custodian shall keep all other custodial 2471
property separate and distinct from the custodian's own property 2472
in a manner to identify it clearly as custodial property. 2473

(H) The custodian shall keep records of all transactions 2474
with respect to the custodial property and make the records 2475
available for inspection at reasonable intervals by a parent or 2476
legal representative of the minor or by the minor, if the minor 2477
has attained the age of fourteen years. 2478

(I) A custodian has, with respect to the custodial 2479
property, in addition to the rights and powers provided in 2480
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, all the 2481
rights and powers that a guardian has with respect to property 2482
not held as custodial property. 2483

(J) The custodian may invest in or pay premiums on any 2484
life or endowment insurance policy or annuity contract on either 2485

of the following:	2486
(1) The life of the minor, if the minor or the estate of the minor is the sole beneficiary under the policy or contract;	2487 2488
(2) The life of any person in whom the minor has an insurable interest, if the minor, the minor's estate, or the custodian in the custodian's capacity as custodian is the sole beneficiary.	2489 2490 2491 2492
(K) All of the rights, powers, and authority of the custodian over custodial property, including all of the incidents of ownership in any life or endowment insurance policy, annuity contract, or benefit plan, are held only in the capacity of the custodian as custodian.	2493 2494 2495 2496 2497
Sec. 5814.05. (A) A custodian is entitled to reimbursement from the custodial property for reasonable expenses incurred in the performance of the custodian's duties.	2498 2499 2500
(B) A custodian may act without compensation for the custodian's services.	2501 2502
(C) Unless the custodian is a donor or transferor, the custodian may receive from custodial property reasonable compensation for the custodian's services determined by one of the following standards in the order stated:	2503 2504 2505 2506
(1) A direction by the donor or transferor when the gift or transfer is made;	2507 2508
(2) A statute of this state applicable to custodians;	2509
(3) The statute of this state applicable to guardians;	2510
(4) An order of the court.	2511
(D) Except as otherwise provided in sections 5814.01 to	2512

~~5814.09~~5814.10 of the Revised Code, a custodian shall not be 2513
required to give a bond for the performance of the custodian's 2514
duties. 2515

(E) A custodian not compensated for the custodian's 2516
services is not liable for losses to the custodial property 2517
unless they result from the custodian's bad faith, intentional 2518
wrongdoing, or gross negligence or from the custodian's failure 2519
to maintain the standard of prudence in investing the custodial 2520
property provided in sections 5814.01 to ~~5814.09~~5814.10 of the 2521
Revised Code. 2522

Sec. 5814.06. An issuer, transfer agent, financial 2523
institution, broker, life insurance company, or other person 2524
acting on the instructions of or otherwise dealing with any 2525
person purporting to act as a donor or transferor or dealing 2526
with any person or trust company purporting to act as a 2527
custodian is not required to do any of the following: 2528

(A) Determine either of the following: 2529

(1) Whether the person or trust company designated by the 2530
purported donor or transferor, or the person or trust company 2531
purporting to act as a custodian, has been duly designated; 2532

(2) Whether any purchase, sale, or transfer to or by, or 2533
any other act of, any person or trust company purporting to act 2534
as a custodian is in accordance with or authorized by sections 2535
5814.01 to ~~5814.09~~5814.10 of the Revised Code. 2536

(B) Inquire into the validity or propriety under sections 2537
5814.01 to ~~5814.09~~5814.10 of the Revised Code of any instrument 2538
or instructions executed or given by a person purporting to act 2539
as a donor or transferor or by a person or trust company 2540
purporting to act as a custodian; 2541

(C) See to the application by any person or trust company 2542
purporting to act as a custodian of any money or other property 2543
paid or delivered to the person or trust company. 2544

Sec. 5814.07. (A) Any person who is eighteen years of age 2545
or older or a trust company is eligible to become a successor 2546
custodian. A successor custodian has all the rights, powers, 2547
duties, and immunities of a custodian designated in a manner 2548
prescribed by sections 5814.01 to ~~5814.09~~5814.10 of the Revised 2549
Code. 2550

(B) A custodian may resign and designate the custodian's 2551
successor by doing all of the following: 2552

(1) Executing an instrument of resignation that designates 2553
the successor custodian; 2554

(2) Causing each security that is custodial property and 2555
in registered form to be registered in the name of the successor 2556
custodian followed, in substance, by the words: "as custodian 2557
for (name of minor) under the Ohio 2558
Transfers to Minors Act;" 2559

(3) Executing in the appropriate manner a deed, 2560
assignment, or similar instrument for all interest in real 2561
estate that is custodial property in the name of the successor 2562
custodian, followed, in substance, by the words: "as custodian 2563
for (name of minor) under the Ohio 2564
Transfers to Minors Act;" 2565

(4) Delivering to the successor custodian the instrument 2566
of resignation, each security registered in the name of the 2567
successor custodian, each deed, assignment, or similar 2568
instrument for all interest in real estate that is in the name 2569
of the successor custodian, and all other custodial property, 2570

together with any additional instruments that are required for 2571
the transfer of the custodial property. 2572

(C) A custodian may petition the court for permission to 2573
resign and for the designation of a successor custodian. 2574

(D) A custodian may designate by the custodian's will a 2575
successor custodian, which designation is effective at the 2576
custodian's death. Upon the custodian's death, the custodian's 2577
legal representative shall do each of the following: 2578

(1) Cause each security that is custodial property and in 2579
registered form to be registered in the name of the successor 2580
custodian, followed, in substance, by the words: "as custodian 2581
for (name of minor) under the Ohio 2582
Transfers to Minors Act;" 2583

(2) Execute in the appropriate manner a deed, assignment, 2584
or similar instrument for all interest in real estate that is 2585
custodial property in the name of the successor custodian, 2586
followed, in substance, by the words: "as custodian 2587
for (name of minor) under the Ohio 2588
Transfers to Minors Act;" 2589

(3) Deliver to the successor custodian each security 2590
registered in the name of the successor custodian, each deed, 2591
assignment, or similar instrument for all interest in real 2592
estate that is in the name of the successor custodian, and all 2593
other custodial property, together with any additional 2594
instruments that are required for the transfer of the custodial 2595
property. 2596

(E) A custodian may designate one or more successor 2597
custodians by transferring the property of any type specified in 2598
division (A) of section 5814.02 of the Revised Code, other than 2599

real estate, in the manner and form provided in that division, 2600
to self as custodian, followed by the designation of the 2601
successor custodian or custodians in the manner and form 2602
provided in division (F) of section 5814.02 of the Revised Code. 2603
A custodian may designate one or more successor custodians of 2604
real property by designating the successor custodian or 2605
custodians in the manner and form provided in sections 5302.22 2606
to 5302.23 of the Revised Code. A designation of a successor 2607
custodian or custodians by the custodian shall replace any 2608
previous designation of successor custodians by the donor, 2609
transferor, or previous custodian. 2610

(F) If no eligible successor custodian is designated by 2611
the donor ~~or~~, transferor, trustee, executor, or administrator 2612
pursuant to division (F) of section 5814.02 of the Revised Code 2613
or in the donor's or transferor's will or trust, or by the 2614
custodian in the custodian's will, ~~or if the custodian dies~~ 2615
~~intestate~~ pursuant to division (D) of this section or by 2616
transfer pursuant to division (E) of this section, the legal 2617
representative of a custodian who is deceased or is adjudged to 2618
be an incompetent by a court, ~~the legal representative of the~~ 2619
~~custodian~~ may designate a successor custodian. If the court in 2620
which the estate or guardianship proceedings relative to the 2621
custodian are pending approves the designation, the designation 2622
shall be regarded as having been effective as of the date of the 2623
death of the custodian or as of the date the custodian was 2624
adjudged to be an incompetent. Upon the approval of the court, 2625
the legal representative of the custodian shall cause the 2626
custodial property to be transferred or registered in the name 2627
of the successor custodian as provided in divisions (D) (1) to 2628
(3) of this section. 2629

~~(F)~~ (G) If a person or entity designated as successor 2630

custodian is not eligible, or renounces or dies before the minor 2631
attains the age of twenty-one years or before the minor attains 2632
the age at which the custodian is required under section 5814.09 2633
of the Revised Code to deliver the custodial property to the 2634
minor, or if the custodian dies without designating a successor 2635
custodian and division ~~(E)~~ (F) of this section does not apply 2636
because the custodian does not have a legal representative, the 2637
guardian of the minor shall be the successor custodian. If the 2638
minor does not have a guardian, a donor or transferor, the legal 2639
representative of the donor or transferor, the legal 2640
representative of the custodian, a member of the minor's family 2641
who is eighteen years of age or older, or the minor, if the 2642
minor has attained the age of fourteen years, may petition the 2643
court for the designation of a successor custodian. 2644

~~(G)~~ (H) A donor or transferor, the legal representative of 2645
a donor or transferor, a member of the minor's family who is 2646
eighteen years of age or older, a guardian of the minor, or the 2647
minor, if the minor has attained the age of fourteen years, may 2648
petition the court that, for cause shown in the petition, the 2649
custodian be removed and a successor custodian be designated or, 2650
in the alternative, that the custodian be required to give bond 2651
for the performance of the custodian's duties. 2652

~~(H)~~ (I) Upon the filing of a petition as provided in this 2653
section, the court shall grant an order, directed to the persons 2654
and returnable on any notice that the court may require, to show 2655
cause why the relief prayed for in the petition should not be 2656
granted and, in due course, grant any relief that the court 2657
finds to be in the best interests of the minor. 2658

Sec. 5814.08. (A) The minor, if the minor has attained the 2659
age of fourteen years, or the legal representative of the minor, 2660

a member of the minor's family who is eighteen years of age or 2661
older, or a donor or transferor or the donor's or transferor's 2662
legal representative may petition the court for an accounting by 2663
the custodian or the custodian's legal representative. A 2664
successor custodian may petition the court for an accounting by 2665
the custodian that the successor custodian succeeded. 2666

(B) The court, in a proceeding under sections 5814.01 to 2667
~~5814.09~~5814.10 of the Revised Code, or otherwise, may require 2668
or permit the custodian or the custodian's legal representative 2669
to account and, if the custodian is removed, shall so require 2670
and order delivery of all custodial property to the successor 2671
custodian and the execution of all instruments required for the 2672
transfer of the custodial property. 2673

Sec. 5814.09. (A) Subject to the requirements and 2674
limitations of this section, the time for delivery to the minor 2675
of custodial property transferred under or pursuant to division 2676
(A) of section 5814.02 of the Revised Code may be delayed until 2677
a specified time after the minor attains the age of twenty-one 2678
years, which time shall be specified in the written instrument 2679
that makes or provides for the gift or transfer pursuant to 2680
divisions (A) (1) to (9) of section 5814.02 of the Revised Code. 2681

(B) To specify a delayed time for delivery to the minor of 2682
the custodial property, the words "as custodian 2683
for (name of minor) until age 2684
(age of delivery of property to minor) under the Ohio Transfers 2685
to Minors Act," shall be substituted in substance for the words 2686
"as custodian for (name of minor) under the 2687
Ohio Transfers to Minors Act." 2688

(C) The time for delivery to the minor of custodial 2689
property transferred under a will, trust instrument, or 2690

irrevocable exercise of a testamentary power of appointment may 2691
be delayed under this section only if the governing will, trust, 2692
or exercise of the power of appointment provides in substance 2693
that the custodianship is to continue until the time the minor 2694
attains a specified age, which time shall not be later than the 2695
date the minor attains the age of twenty-five years. 2696

(D) If the custodial property is transferred by inter 2697
vivos gift and the time for delivery of the custodial property 2698
to the minor is delayed beyond the time the minor attains the 2699
age of twenty-one years, the custodian, nevertheless, shall 2700
deliver the custodial property to the minor if requested in 2701
writing by the minor within sixty days of the minor attaining 2702
the age of twenty-one years, unless the donor or transferor, in 2703
the written instrument of gift or transfer pursuant to divisions 2704
(A) (1) to (9) of section 5814.02 of the Revised Code, provides 2705
that the custodial property may not be delivered to the minor 2706
prior to attaining the specified age of delivery, which time 2707
shall not be later than the date the minor attains the age of 2708
twenty-five years. 2709

(E) If the time for delivery to the minor of custodial 2710
property is delayed until a specified time after the minor 2711
attains the age of twenty-one years and the minor dies prior to 2712
attaining that age, the custodian shall, upon the minor's death, 2713
deliver the custodial property to the estate of the minor. 2714

(F) A custodian may not commingle the assets of custodial 2715
property that have different delivery dates. 2716

Sec. ~~5814.09~~ 5814.10. (A) Sections 5814.01 to ~~5814.09~~ 2717
~~5814.10~~ of the Revised Code shall be construed to effectuate 2718
their general purpose to make uniform the law of those states 2719
that enact similar provisions. 2720

(B) Sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code shall not be construed as providing an exclusive method for making gifts or transfers to minors.

(C) Nothing in sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code, shall affect gifts made under former sections 1339.19 to 1339.28 of the Revised Code, nor the powers, duties, and immunities conferred by gifts in such manner upon custodians and persons dealing with custodians. Sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code henceforth apply, however, to all gifts made in a manner and form prescribed in former sections 1339.19 to 1339.28 of the Revised Code, except insofar as the application impairs constitutionally vested rights. Sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code shall be construed as a continuation of the provisions of former sections 1339.19 to 1339.28 of the Revised Code, according to the language employed, and not as a new enactment.

(D) Nothing in sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code, as of May 7, 1986, shall affect gifts made under those sections as they existed prior to May 7, 1986, or the powers, duties, and immunities conferred by the gifts in any manner upon custodians and persons dealing with custodians. Sections 5814.01 to ~~5814.09~~5814.10 of the Revised Code, as of May 7, 1986, hereafter apply to all gifts made in a manner and form prescribed in those sections as they existed prior to May 7, 1986, except to the extent that the application of those sections, as of May 7, 1986, would impair constitutionally vested rights.

Sec. 5815.23. (A) Except as provided in division (B) of this section, an instrument that creates an inter vivos or testamentary trust shall not require or permit the accumulation

for more than one year of any income of property that satisfies 2751
both of the following: 2752

(1) The property is granted to a surviving spouse of the 2753
testator or other settlor. 2754

(2) The property qualifies for the federal estate tax 2755
marital deduction allowed by subtitle B, Chapter 11 of the 2756
"Internal Revenue Code of 1986," 26 U.S.C. 2056, as amended, the 2757
estate tax marital deduction allowed by division (A) of section 2758
5731.15 of the Revised Code, or the qualified terminable 2759
interest property deduction allowed by division (B) of section 2760
5731.15 of the Revised Code. 2761

(B) (1) Division (A) of this section does not apply if an 2762
instrument that creates an inter vivos or testamentary trust 2763
expressly states the intention of the testator or other settlor 2764
that obtaining a marital deduction or a qualified terminable 2765
interest property deduction as described in division (A) (2) of 2766
this section is less important than requiring or permitting the 2767
accumulation of income of property in accordance with a 2768
provision in the instrument that requires or permits the 2769
accumulation for more than one year of any income of property. 2770

(2) Division (A) of this section does not apply to any 2771
beneficiary of an inter vivos or testamentary trust other than 2772
the surviving spouse of the testator or other settlor or to any 2773
inter vivos or testamentary trust of which the surviving spouse 2774
of the testator or other settlor is a beneficiary if an interest 2775
in property does not qualify for a marital deduction or a 2776
qualified terminable interest property deduction as described in 2777
division (A) (2) of this section. 2778

~~(C) (1) The trustee of a trust that qualifies for an estate 2779~~

~~tax marital deduction for federal or Ohio estate tax purposes— 2780
and that is the beneficiary of an individual retirement account— 2781
has a fiduciary duty, in regard to the income distribution— 2782
provision of the trust, to withdraw and distribute the income of— 2783
the individual retirement account, at least annually, to the— 2784
surviving spouse of the testator or other settlor. 2785~~

~~(2) A trustee's fiduciary duty as described in division— 2786
(C) (1) of this section is satisfied if the terms of the trust— 2787
instrument expressly provide the surviving spouse a right to— 2788
withdraw all of the assets from the trust or a right to compel— 2789
the trustee to withdraw and distribute the income of the— 2790
individual retirement account to the surviving spouse. 2791~~

~~(D) Divisions (A) and (B) and (C) (1) of this section are 2792
intended to codify existing fiduciary and trust law principles 2793
relating to the interpretation of a testator's or other 2794
settlor's intent with respect to the income provisions of a 2795
trust. Divisions (A) and (B) and (C) of this section apply to 2796
trust instruments executed prior to and existing on October 1, 2797
1996, or executed thereafter. The trustee of a trust described 2798
in division (A) or (B) of this section, in a written trust 2799
amendment, may elect to not apply divisions (A) and (B) of this 2800
section to the trust. Any election of that nature, when made, is 2801
irrevocable. 2802~~

Section 2. That existing sections 1901.261, 1907.261, 2803
2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2105.32, 2804
2105.33, 2105.34, 2105.35, 2105.36, 2105.37, 2105.39, 2106.13, 2805
2106.18, 2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 2806
2153.081, 2301.031, 4505.10, 5801.10, 5803.02, 5804.02, 5808.16, 2807
5812.32, 5812.46, 5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 2808
5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 5815.23 and 2809

section 2105.38 of the Revised Code are hereby repealed. 2810

Section 3. Section 2101.16 of the Revised Code is 2811
presented in this act as a composite of the section as amended 2812
by both Sub. S.B. 23 and Am. Sub. S.B. 43 of the 130th General 2813
Assembly. The General Assembly, applying the principle stated in 2814
division (B) of section 1.52 of the Revised Code that amendments 2815
are to be harmonized if reasonably capable of simultaneous 2816
operation, finds that the composite is the resulting version of 2817
the section in effect prior to the effective date of the section 2818
as presented in this act. 2819