

As Reported by the Senate Civil Justice Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 432

Representatives Cupp, Rezabek

**Cosponsors: Representatives Bishoff, Craig, Grossman, Hayes, Johnson, G.,
Manning, McClain, Rogers, Sweeney**

Senators Coley, Bacon, Hackett

A BILL

To amend sections 1337.60, 1901.261, 1907.261, 1
2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 2
2105.31, 2105.32, 2105.33, 2105.34, 2105.35, 3
2105.36, 2105.37, 2105.39, 2106.13, 2106.18, 4
2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 5
2151.541, 2153.081, 2301.031, 4505.10, 5801.10, 6
5803.02, 5804.02, 5808.16, 5812.32, 5812.46, 7
5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 8
5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 9
5815.23; to amend, for the purpose of adopting 10
new 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 1337.571, 2105.40, 14
2127.012, 2137.01, 2137.02, 2137.03, 2137.04, 15
2137.05, 2137.06, 2137.07, 2137.08, 2137.09, 16
2137.10, 2137.11, 2137.12, 2137.13, 2137.14, 17
2137.15, 2137.16, 2137.17, 2137.18, and 5802.04; 18
and to repeal section 2105.38 of the Revised 19
Code to revise the law governing decedent's 20
estates by making changes in the Ohio Trust 21

Code, the Probate Law, the Uniform Principal and 22
Income Act, the Transfers to Minors Act, and the 23
Uniform Simultaneous Death Act; to raise the 24
ceilings on the optional additional fees that a 25
probate, domestic relations, juvenile, 26
municipal, or county court or the Cuyahoga 27
County Juvenile Court may charge to fund 28
computerization of the court or the court 29
clerk's office, and to authorize use of the 30
additional clerk's fees to fund technological 31
advances in the clerk's office; to authorize the 32
director or any designee of the Franklin County 33
Guardianship Service Board to act on behalf of 34
the Board on guardianship matters, and to permit 35
the Board to charge a reasonable fee for 36
services to wards; and to adopt the Revised 37
Uniform Fiduciary Access to Digital Assets Act. 38

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

Section 1. That sections 1337.60, 1901.261, 1907.261, 39
2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 2105.31, 2105.32, 40
2105.33, 2105.34, 2105.35, 2105.36, 2105.37, 2105.39, 2106.13, 41
2106.18, 2107.07, 2107.10, 2109.62, 2111.131, 2113.86, 2151.541, 42
2153.081, 2301.031, 4505.10, 5801.10, 5803.02, 5804.02, 5808.16, 43
5812.32, 5812.46, 5812.51, 5814.01, 5814.02, 5814.03, 5814.04, 44
5814.05, 5814.06, 5814.07, 5814.08, 5814.09, and 5815.23 be 45
amended; sections 2105.39 (2105.38) and 5814.09 (5814.10) be 46
amended for the purpose of adopting new section numbers as shown 47
in parentheses; and new sections 2105.39 and 5814.09 and 48

sections 1337.571, 2105.40, 2127.012, 2137.01, 2137.02, 2137.03, 49
2137.04, 2137.05, 2137.06, 2137.07, 2137.08, 2137.09, 2137.10, 50
2137.11, 2137.12, 2137.13, 2137.14, 2137.15, 2137.16, 2137.17, 51
2137.18, and 5802.04 of the Revised Code be enacted to read as 52
follows: 53

Sec. 1337.571. Unless the power of attorney otherwise 54
provides, language in a power of attorney granting general 55
authority with respect to digital assets causes the agent to be 56
an authorized user for the purpose of applicable computer fraud 57
and unauthorized computer access laws and authorizes the agent 58
to do all of the following: 59

(A) Have access to any catalogue of electronic 60
communications sent or received by the principal; 61

(B) Have access to any other digital asset in which the 62
principal has a right or interest; 63

(C) Have the right to access any of the principal's 64
tangible personal property capable of receiving, storing, 65
processing, or sending a digital asset; 66

(D) Take any action concerning the asset to the extent of 67
the account holder's authority; 68

(E) Have access to the content of electronic 69
communications sent or received by the principal. 70

Sec. 1337.60. A document substantially in the following 71
form may be used to create a statutory form power of attorney 72
that has the meaning and effect prescribed by sections 1337.21 73
to 1337.64 of the Revised Code. 74

[INSERT NAME OF JURISDICTION] 75

STATUTORY FORM POWER OF ATTORNEY 76

IMPORTANT INFORMATION	77
This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the Revised Code).	78 79 80 81 82 83 84 85
This power of attorney does not authorize the agent to make health-care decisions for you.	86 87
You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.	88 89 90 91
Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.	92 93
This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.	94 95 96 97
If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.	98 99 100
This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.	101 102
ACTIONS REQUIRING EXPRESS AUTHORITY	103
Unless expressly authorized and initialed by me in the	104

Special Instructions, this power of attorney does not grant	105
authority to my agent to do any of the following:	106
(1) Create a trust;	107
(2) Amend, revoke, or terminate an inter vivos trust, even	108
if specific authority to do so is granted to the agent in the	109
trust agreement;	110
(3) Make a gift;	111
(4) Create or change rights of survivorship;	112
(5) Create or change a beneficiary designation;	113
(6) Delegate authority granted under the power of	114
attorney;	115
(7) Waive the principal's right to be a beneficiary of a	116
joint and survivor annuity, including a survivor benefit under a	117
retirement plan;	118
(8) Exercise fiduciary powers that the principal has	119
authority to delegate.	120
CAUTION: Granting any of the above eight powers will give	121
your agent the authority to take actions that could	122
significantly reduce your property or change how your property	123
is distributed at your death.	124
If you have questions about the power of attorney or the	125
authority you are granting to your agent, you should seek legal	126
advice before signing this form.	127
DESIGNATION OF AGENT	128
I, (Name of	129
Principal) name the following person as my agent:	130

Name of Agent:	131
.....	132
Agent's Address:	133
.....	134
Agent's Telephone Number:	135
.....	136
DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)	137
If my agent is unable or unwilling to act for me, I name	138
as my successor agent:	139
Name of Successor Agent:	140
.....	141
Successor Agent's Address:	142
.....	143
Successor Agent's Telephone Number:	144
.....	145
If my successor agent is unable or unwilling to act for	146
me, I name as my second successor agent:	147
Name of Second Successor Agent:	148
.....	149
Second Successor Agent's Address:	150
.....	151
Second Successor Agent's Telephone Number:	152
.....	153

GRANT OF GENERAL AUTHORITY	154
I grant my agent and any successor agent general authority	155
to act for me with respect to the following subjects as defined	156
in the Uniform Power of Attorney Act (sections 1337.21 to	157
1337.64 of the Revised Code):	158
(INITIAL each subject you want to include in the agent's	159
general authority. If you wish to grant general authority over	160
all of the subjects you may initial "All Preceding Subjects"	161
instead of initialing each subject.)	162
(...) Real Property	163
(...) Tangible Personal Property	164
(...) Stocks and Bonds	165
(...) Commodities and Options	166
(...) Banks and Other Financial Institutions	167
(...) Operation of Entity or Business	168
(...) Insurance and Annuities	169
(...) Estates, Trusts, and Other Beneficial Interests	170
(...) Claims and Litigation	171
(...) Personal and Family Maintenance	172
(...) Benefits from Governmental Programs or Civil or	173
Military Service	174
(...) Retirement Plans	175
(...) Taxes	176
<u>(...) Digital Assets</u>	177

(...) All Preceding Subjects	178
<u>(...) My agent shall have access to the content of</u>	179
<u>electronic communications sent or received by me.</u>	180
LIMITATION ON AGENT'S AUTHORITY	181
An agent that is not my ancestor, spouse, or descendant	182
MAY NOT use my property to benefit the agent or a person to whom	183
the agent owes an obligation of support unless I have included	184
that authority in the Special Instructions.	185
SPECIAL INSTRUCTIONS (OPTIONAL)	186
You may give special instructions on the following lines:	187
.....	188
.....	189
.....	190
.....	191
.....	192
.....	193
.....	194
.....	195
.....	196
EFFECTIVE DATE	197
This power of attorney is effective immediately unless I	198
have stated otherwise in the Special Instructions.	199
NOMINATION OF GUARDIAN (OPTIONAL)	200
If it becomes necessary for a court to appoint a guardian	201

.....	225
Your Address	226
.....	227
Your Telephone Number	228
State of Ohio	229
County of	230
This document was acknowledged before me	231
on (Date), by	232
(Name of Principal).	233
.....	234
Signature of Notary	235
My commission expires:	236
.....	237
This document prepared by:	238
.....	239
.....	240
IMPORTANT INFORMATION FOR AGENT	241
Agent's Duties	242
When you accept the authority granted under this power of	243
attorney, a special legal relationship is created between you	244
and the principal. This relationship imposes upon you legal	245
duties that continue until you resign or the power of attorney	246
is terminated or revoked. You must:	247
(1) Do what you know the principal reasonably expects you	248

to do with the principal's property or, if you do not know the	249
principal's expectations, act in the principal's best interest;	250
(2) Act in good faith;	251
(3) Do nothing beyond the authority granted in this power	252
of attorney;	253
(4) Attempt to preserve the principal's estate plan if you	254
know the plan and preserving the plan is consistent with the	255
principal's best interest;	256
(5) Disclose your identity as an agent whenever you act	257
for the principal by writing or printing the name of the	258
principal and signing your own name as "agent" in the following	259
manner:	260
(Principal's Name) by (Your Signature) as Agent	261
Unless the Special Instructions in this power of attorney	262
state otherwise, you must also:	263
(1) Act loyally for the principal's benefit;	264
(2) Avoid conflicts that would impair your ability to act	265
in the principal's best interest;	266
(3) Act with care, competence, and diligence;	267
(4) Keep a record of all receipts, disbursements, and	268
transactions made on behalf of the principal;	269
(5) Cooperate with any person that has authority to make	270
health-care decisions for the principal to do what you know the	271
principal reasonably expects or, if you do not know the	272
principal's expectations, to act in the principal's best	273
interest.	274
Termination of Agent's Authority	275

You must stop acting on behalf of the principal if you 276
learn of any event that terminates this power of attorney or 277
your authority under this power of attorney. Events that 278
terminate a power of attorney or your authority to act under a 279
power of attorney include: 280

(1) The death of the principal; 281

(2) The principal's revocation of the power of attorney or 282
your authority; 283

(3) The occurrence of a termination event stated in the 284
power of attorney; 285

(4) The purpose of the power of attorney is fully 286
accomplished; 287

(5) If you are married to the principal, a legal action is 288
filed with a court to end your marriage, or for your legal 289
separation, unless the Special Instructions in this power of 290
attorney state that such an action will not terminate your 291
authority. 292

Liability of Agent 293

The meaning of the authority granted to you is defined in 294
the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 295
of the Revised Code). If you violate the Uniform Power of 296
Attorney Act or act outside the authority granted, you may be 297
liable for any damages caused by your violation. 298

If there is anything about this document or your duties 299
that you do not understand, you should seek legal advice. 300

Sec. 1901.261. (A) (1) A municipal court may determine that 301
for the efficient operation of the court additional funds are 302
required to computerize the court, to make available 303

computerized legal research services, or to do both. Upon making 304
a determination that additional funds are required for either or 305
both of those purposes, the court shall include in its schedule 306
of fees and costs under section 1901.26 of the Revised Code one 307
additional fee not to exceed ~~three~~six dollars on the filing of 308
each cause of action or appeal equivalent to one described in 309
division (A), (Q), or (U) of section 2303.20 of the Revised Code 310
and shall direct the clerk of the court to charge the fee. 311

(2) All fees collected under this section shall be paid on 312
or before the twentieth day of the month following the month in 313
which they are collected to the county treasurer if the court is 314
a county-operated municipal court or to the city treasurer if 315
the court is not a county-operated municipal court. The 316
treasurer shall place the funds from the fees in a separate fund 317
to be disbursed upon an order of the court, subject to an 318
appropriation by the board of county commissioners if the court 319
is a county-operated municipal court or by the legislative 320
authority of the municipal corporation if the court is not a 321
county-operated municipal court, or upon an order of the court, 322
subject to the court making an annual report available to the 323
public listing the use of all such funds, in an amount not 324
greater than the actual cost to the court of computerizing the 325
court, procuring and maintaining computerized legal research 326
services, or both. 327

(3) If the court determines that the funds in the fund 328
described in division (A) (2) of this section are more than 329
sufficient to satisfy the purpose for which the additional fee 330
described in division (A) (1) of this section was imposed, the 331
court may declare a surplus in the fund and, subject to an 332
appropriation by the board of county commissioners if the court 333
is a county-operated municipal court or by the legislative 334

authority of the municipal corporation if the court is not a 335
county-operated municipal court, expend those surplus funds, or 336
upon an order of the court, subject to the court making an 337
annual report available to the public listing the use of all 338
such funds, expend those surplus funds, for other appropriate 339
technological expenses of the court. 340

(B) (1) A municipal court may determine that, for the 341
efficient operation of the court, additional funds are required 342
to make technological advances in or to computerize the office 343
of the clerk of the court and, upon that determination, may 344
include in its schedule of fees and costs under section 1901.26 345
of the Revised Code an additional fee not to exceed ~~ten~~twenty 346
dollars on the filing of each cause of action or appeal, on the 347
filing, docketing, and endorsing of each certificate of 348
judgment, or on the docketing and indexing of each aid in 349
execution or petition to vacate, revive, or modify a judgment 350
that is equivalent to one described in division (A), (P), (Q), 351
(T), or (U) of section 2303.20 of the Revised Code. Subject to 352
division (B) (2) of this section, all moneys collected under 353
division (B) (1) of this section shall be paid on or before the 354
twentieth day of the month following the month in which they are 355
collected to the county treasurer if the court is a county- 356
operated municipal court or to the city treasurer if the court 357
is not a county-operated municipal court. The treasurer shall 358
place the funds from the fees in a separate fund to be 359
disbursed, upon an order of the municipal court and subject to 360
an appropriation by the board of county commissioners if the 361
court is a county-operated municipal court or by the legislative 362
authority of the municipal corporation if the court is not a 363
county-operated municipal court, in an amount no greater than 364
the actual cost to the court of procuring and maintaining 365

technology and computer systems for the office of the clerk of 366
the municipal court. 367

(2) If a municipal court makes the determination described 368
in division (B)(1) of this section, the board of county 369
commissioners of the county if the court is a county-operated 370
municipal court or the legislative authority of the municipal 371
corporation if the court is not a county-operated municipal 372
court, may issue one or more general obligation bonds for the 373
purpose of procuring and maintaining the technology and computer 374
systems for the office of the clerk of the municipal court. In 375
addition to the purposes stated in division (B)(1) of this 376
section for which the moneys collected under that division may 377
be expended, the moneys additionally may be expended to pay debt 378
charges and financing costs related to any general obligation 379
bonds issued pursuant to division (B)(2) of this section as they 380
become due. General obligation bonds issued pursuant to division 381
(B)(2) of this section are Chapter 133. securities. 382

Sec. 1907.261. (A)(1) A county court may determine that 383
for the efficient operation of the court additional funds are 384
required to computerize the court, to make available 385
computerized legal research services, or to do both. Upon making 386
a determination that additional funds are required for either or 387
both of those purposes, the court shall include in its schedule 388
of fees and costs under section 1907.24 of the Revised Code one 389
additional fee not to exceed ~~three~~six dollars on the filing of 390
each cause of action or appeal equivalent to one described in 391
division (A), (Q), or (U) of section 2303.20 of the Revised Code 392
and shall direct the clerk of the court to charge the fee. 393

(2) All fees collected under this section shall be paid on 394
or before the twentieth day of the month following the month in 395

which they are collected to the county treasurer. The treasurer 396
shall place the funds from the fees in a separate fund to be 397
disbursed either upon an order of the court, subject to an 398
appropriation by the board of county commissioners, or upon an 399
order of the court, subject to the court making an annual report 400
available to the public listing the use of all such funds, in an 401
amount not greater than the actual cost to the court of 402
computerizing the court, procuring and maintaining computerized 403
legal research services, or both. 404

(3) If the court determines that the funds in the fund 405
described in division (A)(2) of this section are more than 406
sufficient to satisfy the purpose for which the additional fee 407
described in division (A)(1) of this section was imposed, the 408
court may declare a surplus in the fund and, subject to an 409
appropriation by the board of county commissioners, expend those 410
surplus funds, or upon an order of the court, subject to the 411
court making an annual report available to the public listing 412
the use of all such funds, expend those surplus funds, for other 413
appropriate technological expenses of the court. 414

(B)(1) A county court may determine that, for the 415
efficient operation of the court, additional funds are required 416
to make technological advances in or to computerize the office 417
of the clerk of the court and, upon that determination, may 418
include in its schedule of fees and costs under section 1907.24 419
of the Revised Code an additional fee not to exceed ~~ten~~ twenty 420
dollars on the filing of each cause of action or appeal, on the 421
filing, docketing, and endorsing of each certificate of 422
judgment, or on the docketing and indexing of each aid in 423
execution or petition to vacate, revive, or modify a judgment 424
that is equivalent to one described in division (A), (P), (Q), 425
(T), or (U) of section 2303.20 of the Revised Code. Subject to 426

division (B) (2) of this section, all moneys collected under 427
division (B) (1) of this section shall be paid on or before the 428
twentieth day of the month following the month in which they are 429
collected to the county treasurer. The treasurer shall place the 430
funds from the fees in a separate fund to be disbursed, upon an 431
order of the county court and subject to an appropriation by the 432
board of county commissioners, in an amount no greater than the 433
actual cost to the court of procuring and maintaining technology 434
and computer systems for the office of the clerk of the county 435
court. 436

(2) If a county court makes the determination described in 437
division (B) (1) of this section, the board of county 438
commissioners of that county may issue one or more general 439
obligation bonds for the purpose of procuring and maintaining 440
technology and the computer systems for the office of the clerk 441
of the county court. In addition to the purposes stated in 442
division (B) (1) of this section for which the moneys collected 443
under that division may be expended, the moneys additionally may 444
be expended to pay debt charges and financing costs related to 445
any general obligation bonds issued pursuant to division (B) (2) 446
of this section as they become due. General obligation bonds 447
issued pursuant to division (B) (2) of this section are Chapter 448
133. securities. 449

Sec. 2101.026. (A) The probate court of Franklin county 450
may accept funds or other program assistance from, or charge 451
fees for services described in division (B) of this section 452
rendered to, individuals, corporations, agencies, or 453
organizations, including, but not limited to, the board of 454
alcohol, drug addiction, and mental health services of Franklin 455
county or the Franklin county board of developmental 456
disabilities. Any funds or fees received by the probate court of 457

Franklin county under this division shall be paid into the 458
treasury of Franklin county and credited to a fund to be known 459
as the Franklin county probate court mental health fund. 460

(B) The moneys in the Franklin county probate court mental 461
health fund shall be used for services to help ensure the 462
treatment of any person who is under the care of the board of 463
alcohol, drug addiction, and mental health services of Franklin 464
county, the Franklin county board of developmental disabilities, 465
or any other guardianships. These services include, but are not 466
limited to, involuntary commitment proceedings and the 467
establishment and management of adult guardianships, including 468
all associated expenses, for wards who are under the care of the 469
board of alcohol, drug addiction, and mental health services of 470
Franklin county, the Franklin county board of developmental 471
disabilities, or any other guardianships. 472

(C) If the judge of the probate court of Franklin county 473
determines that some of the moneys in the Franklin county 474
probate court mental health fund are needed for the efficient 475
operation of that court, the moneys may be used for the 476
acquisition of equipment, the hiring and training of staff, 477
community services programs, volunteer guardianship training 478
services, the employment of magistrates, and other related 479
services. 480

(D) The moneys in the Franklin county probate court mental 481
health fund that may be used in part for the establishment and 482
management of adult guardianships under division (B) of this 483
section may be utilized to establish a Franklin county 484
guardianship service. 485

(E) (1) A Franklin county guardianship service under 486
division (D) of this section is established by creating a 487

Franklin county guardianship service board comprised of three 488
members. The judge of the probate court of Franklin county shall 489
appoint one member. The board of directors of the Franklin 490
county board of developmental disabilities shall appoint one 491
member. The board of directors of the board of alcohol, drug 492
addiction, and mental health services of Franklin county shall 493
appoint one member. The term of appointment of each member is 494
four years. 495

(2) The Franklin county guardianship service board may 496
appoint a director of the board. The board shall determine the 497
compensation of the director based on the availability of funds 498
contained in the Franklin county probate court mental health 499
fund. 500

~~(3) The members and the director, if any, of the Franklin~~ 501
~~county guardianship service board may receive appointments from~~ 502
~~the probate court of Franklin county to serve as guardians of~~ 503
~~both the person and estate of wards. The The director or any 504
designee of the Franklin county guardianship service board may 505
act on behalf of the board in relation to all guardianship 506
matters. 507~~

(4) The director of the Franklin county guardianship 508
service board may hire employees subject to available funds in 509
the Franklin county probate court mental health fund. 510

~~(4) If a new director replaces a previously appointed~~ 511
~~director of the Franklin county guardianship service board, the~~ 512
~~new director shall replace the former director serving as a~~ 513
~~guardian under division (E) (3) of this section without the need~~ 514
~~of a successor guardianship hearing conducted by the probate~~ 515
~~court of Franklin county so long as the wards are the same wards~~ 516
~~for both the former director and the new director.~~ 517

(5) The Franklin county guardianship service board may 518
charge a reasonable fee for services provided to wards. The 519
probate judge shall approve any fees charged by the board under 520
division (E) (5) of this section. 521

(6) The Franklin county guardianship service board that is 522
created under division (E) (1) of this section shall promulgate 523
all rules and regulations necessary for the efficient operation 524
of the board and the Franklin county guardianship service. 525

Sec. 2101.16. (A) Except as provided in section 2101.164 526
of the Revised Code, the fees enumerated in this division shall 527
be charged and collected, if possible, by the probate judge and 528
shall be in full for all services rendered in the respective 529
proceedings: 530

- (1) Account, in addition to advertising charges 531
 -\$ 12.00 532
 - Waivers and proof of notice of hearing on account, 533
 - per page, minimum one dollar 534
 -\$ 1.00 535
- (2) Account of distribution, in addition to 536
- advertising charges 537
-\$ 7.00 538
- (3) Adoption of child, petition for 539
-\$ 50.00 540
- (4) Alter or cancel contract for sale or purchase of 541
- real property, complaint to 542
-\$ 20.00 543
- (5) Application and order not otherwise provided for 544
- in this section or by rule adopted pursuant to 545
- division (E) of this section 546
-\$ 5.00 547
- (6) Appropriation suit, per day, hearing in 548

.....	\$ 20.00	549
(7) Birth, application for registration of		550
.....	\$ 7.00	551
(8) Birth record, application to correct		552
.....	\$ 5.00	553
(9) Bond, application for new or additional		554
.....	\$ 5.00	555
(10) Bond, application for release of surety or reduction of		556
.....	\$ 5.00	558
(11) Bond, receipt for securities deposited in lieu of		559
.....	\$ 5.00	560
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar		561
.....	\$ 1.00	563
(13) Citation and issuing citation, application for		564
.....	\$ 5.00	565
(14) Change of name, petition for		566
.....	\$ 20.00	567
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own		568
.....	\$ 10.00	570
(16) Claim, application to compromise or settle		571
.....	\$ 10.00	572
(17) Claim, authority to present		573
.....	\$ 10.00	574
(18) Commissioner, appointment of		575
.....	\$ 5.00	576
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for		577
.....	\$ 5.00	578
(20) Competency, application to procure adjudication of		580

.....	\$ 20.00	581
(21) Complete contract, application to		582
.....	\$ 10.00	583
(22) Concealment of assets, citation for		584
.....	\$ 10.00	585
(23) Construction of will, complaint for		586
.....	\$ 20.00	587
(24) Continue decedent's business, application to		588
.....	\$ 10.00	589
Monthly reports of operation		590
.....	\$ 5.00	591
(25) Declaratory judgment, complaint for		592
.....	\$ 20.00	593
(26) Deposit of will		594
.....	\$ 5.00	595
	<u>25.00</u>	596
(27) Designation of heir		597
.....	\$ 20.00	598
(28) Distribution in kind, application, assent, and order for		599
.....	\$ 5.00	601
(29) Distribution under section 2109.36 of the Revised Code, application for an order of		602
.....	\$ 7.00	604
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars		605
.....	\$ 15.00	608
(31) Exceptions to any proceeding named in this section, contest of appointment or		609
.....	\$ 10.00	611
(32) Election of surviving partner to purchase assets		612

of partnership, proceedings relating to		613
.....\$ 10.00		614
(33) Election of surviving spouse under will		615
.....\$ 5.00		616
(34) Fiduciary, including an assignee or trustee of		617
an insolvent debtor or any guardian or conservator		618
accountable to the probate court, appointment of		619
.....\$ 35.00		620
(35) Foreign will, application to record		621
.....\$ 10.00		622
Record of foreign will, additional, per page		623
.....\$ 1.00		624
(36) Forms when supplied by the probate court, not to		625
exceed		626
.....\$ 10.00		627
(37) Heirship, complaint to determine		628
.....\$ 20.00		629
(38) Injunction proceedings		630
.....\$ 20.00		631
(39) Improve real property, petition to		632
.....\$ 20.00		633
(40) Inventory with appraisalment		634
.....\$ 10.00		635
(41) Inventory without appraisalment		636
.....\$ 7.00		637
(42) Investment or expenditure of funds, application		638
for		639
.....\$ 10.00		640
(43) Invest in real property, application to		641
.....\$ 10.00		642
(44) Lease for oil, gas, coal, or other mineral,		643
petition to		644

.....	\$ 20.00	645
(45) Lease or lease and improve real property,		646
petition to		647
.....	\$ 20.00	648
(46) Marriage license		649
.....	\$ 10.00	650
Certified abstract of each marriage		651
.....	\$ 2.00	652
(47) Minor or incompetent person, etc., disposal of		653
estate under twenty-five thousand dollars of		654
.....	\$ 10.00	655
(48) Mortgage or mortgage and repair or improve real		656
property, complaint to		657
.....	\$ 20.00	658
(49) Newly discovered assets, report of		659
.....	\$ 7.00	660
(50) Nonresident executor or administrator to bar		661
creditors' claims, proceedings by		662
.....	\$ 20.00	663
(51) Power of attorney or revocation of power, bonding		664
company		665
.....	\$ 10.00	666
(52) Presumption of death, petition to establish		667
.....	\$ 20.00	668
(53) Probating will		669
.....	\$ 15.00	670
Proof of notice to beneficiaries		671
.....	\$ 5.00	672
(54) Purchase personal property, application of		673
surviving spouse to		674
.....	\$ 10.00	675
(55) Purchase real property at appraised value,		676

petition of surviving spouse to		677
.....	20.00	678
(56) Receipts in addition to advertising charges,		679
application and order to record		680
.....	5.00	681
Record of those receipts, additional, per page		682
.....	1.00	683
(57) Record in excess of fifteen hundred words in any		684
proceeding in the probate court, per page		685
.....	1.00	686
(58) Release of estate by mortgagee or other lienholder		687
.....	5.00	688
(59) Relieving an estate from administration under		689
section 2113.03 of the Revised Code or granting		690
an order for a summary release from administration		691
under section 2113.031 of the Revised Code		692
.....	60.00	693
(60) Removal of fiduciary, application for		694
.....	10.00	695
(61) Requalification of executor or administrator		696
.....	10.00	697
(62) Resignation of fiduciary		698
.....	5.00	699
(63) Sale bill, public sale of personal property		700
.....	10.00	701
(64) Sale of personal property and report, application		702
for		703
.....	10.00	704
(65) Sale of real property, petition for		705
.....	25.00	706
(66) Terminate guardianship, petition to		707
.....	10.00	708

(67) Transfer of real property, application, entry, and certificate for		709
.....	\$ 7.00	710
.....		711
(68) Unclaimed money, application to invest		712
.....	\$ 7.00	713
(69) Vacate approval of account or order of distribution, motion to		714
.....	\$ 10.00	715
.....		716
(70) Writ of execution		717
.....	\$ 5.00	718
(71) Writ of possession		719
.....	\$ 5.00	720
(72) Wrongful death, application and settlement of claim for		721
.....	\$ 20.00	722
.....		723
(73) Year's allowance, petition to review		724
.....	\$ 7.00	725
(74) Guardian's report, filing and review of		726
.....	\$ 5.00	727
(75) Mentally ill person subject to court order, filing of affidavit and proceedings for		728
.....	\$ 25.00	729
.....		730
(B) (1) In relation to an application for the appointment		731
of a guardian or the review of a report of a guardian under		732
section 2111.49 of the Revised Code, the probate court, pursuant		733
to court order or in accordance with a court rule, may direct		734
that the applicant or the estate pay any or all of the expenses		735
of an investigation conducted pursuant to section 2111.041 or		736
division (A) (2) of section 2111.49 of the Revised Code. If the		737
investigation is conducted by a public employee or investigator		738
who is paid by the county, the fees for the investigation shall		739

be paid into the county treasury. If the court finds that an 740
alleged incompetent or a ward is indigent, the court may waive 741
the costs, fees, and expenses of an investigation. 742

(2) In relation to the appointment or functioning of a 743
guardian for a minor or the guardianship of a minor, the probate 744
court may direct that the applicant or the estate pay any or all 745
of the expenses of an investigation conducted pursuant to 746
section 2111.042 of the Revised Code. If the investigation is 747
conducted by a public employee or investigator who is paid by 748
the county, the fees for the investigation shall be paid into 749
the county treasury. If the court finds that the guardian or 750
applicant is indigent, the court may waive the costs, fees, and 751
expenses of an investigation. 752

(3) In relation to the filing of an affidavit of mental 753
illness for a mentally ill person subject to court order, the 754
court may waive the fee under division (A) (75) of this section 755
if the court finds that the affiant is indigent or for good 756
cause shown. 757

(C) Thirty dollars of the thirty-five-dollar fee collected 758
pursuant to division (A) (34) of this section and twenty dollars 759
of the sixty-dollar fee collected pursuant to division (A) (59) 760
of this section shall be deposited by the county treasurer in 761
the indigent guardianship fund created pursuant to section 762
2111.51 of the Revised Code. 763

(D) The fees of witnesses, jurors, sheriffs, coroners, and 764
constables for services rendered in the probate court or by 765
order of the probate judge shall be the same as provided for 766
similar services in the court of common pleas. 767

(E) The probate court, by rule, may require an advance 768

deposit for costs, not to exceed one hundred twenty-five 769
dollars, at the time application is made for an appointment as 770
executor or administrator or at the time a will is presented for 771
probate. 772

(F) (1) Thirty dollars of the fifty-dollar fee collected 773
pursuant to division (A) (3) of this section shall be deposited 774
into the "putative father registry fund," which is hereby 775
created in the state treasury. The department of job and family 776
services shall use the money in the fund to fund the 777
department's costs of performing its duties related to the 778
putative father registry established under section 3107.062 of 779
the Revised Code. 780

(2) If the department determines that money in the 781
putative father registry fund is more than is needed for its 782
duties related to the putative father registry, the department 783
may use the surplus moneys in the fund as permitted in division 784
(C) of section 2151.3529, division (B) of section 2151.3530, or 785
section 5103.155 of the Revised Code. 786

Sec. 2101.162. (A) (1) The probate judge may determine 787
that, for the efficient operation of the probate court, 788
additional funds are required to computerize the court, to make 789
available computerized legal research services, or to do both. 790
Upon making a determination that additional funds are required 791
for either or both of those purposes, the probate judge shall 792
charge a fee not to exceed ~~three-six~~ dollars or authorize and 793
direct a deputy clerk of the probate court to charge a fee not 794
to exceed ~~three-six~~ dollars, in addition to the fees specified 795
in divisions (A) (1), (3), (4), (6), (14) to (17), (20) to (25), 796
(27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) 797
to (61), (63) to (66), (69), and (72) of section 2101.16 of the 798

Revised Code and the fee charged in connection with the 799
docketing and indexing of an appeal. 800

(2) All moneys collected under division (A)(1) of this 801
section shall be paid to the county treasurer. The treasurer 802
shall place the moneys from the fees in a separate fund to be 803
disbursed, upon an order of the probate judge, in an amount no 804
greater than the actual cost to the court of procuring and 805
maintaining computerization of the court, computerized legal 806
research services, or both. 807

(3) If the court determines that the funds in the fund 808
described in division (A)(2) of this section are more than 809
sufficient to satisfy the purpose for which the additional fee 810
described in division (A)(1) of this section was imposed, the 811
court may declare a surplus in the fund and expend those surplus 812
funds for other appropriate technological expenses of the court. 813

(B)(1) The probate judge may determine that, for the 814
efficient operation of the probate court, additional funds are 815
required to make technological advances in or to computerize the 816
office of the clerk of the court and, upon that determination, 817
may charge a fee, not to exceed ~~ten~~ twenty dollars, or authorize 818
and direct a deputy clerk of the probate court to charge a fee, 819
not to exceed ~~ten~~ twenty dollars, in addition to the fees 820
specified in divisions (A)(1), (3), (4), (6), (14) to (17), (20) 821
to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to 822
(55), (59) to (61), (63) to (66), (69), and (72) of section 823
2101.16 of the Revised Code and the fee charged in connection 824
with the docketing and indexing of an appeal. Subject to 825
division (B)(2) of this section, all moneys collected under this 826
division shall be paid to the county treasurer to be disbursed, 827
upon an order of the probate judge and subject to appropriation 828

by the board of county commissioners, in an amount no greater 829
than the actual cost to the probate court of procuring and 830
maintaining technology and computer systems for the office of 831
the clerk of the court. 832

(2) If the probate judge makes the determination described 833
in division (B)(1) of this section, the board of county 834
commissioners may issue one or more general obligation bonds for 835
the purpose of procuring and maintaining the technology and 836
computer systems for the office of the clerk of the probate 837
court. In addition to the purposes stated in division (B)(1) of 838
this section for which the moneys collected under that division 839
may be expended, the moneys additionally may be expended to pay 840
debt charges on and financing costs related to any general 841
obligation bonds issued pursuant to this division as they become 842
due. General obligation bonds issued pursuant to this division 843
are Chapter 133. securities. 844

Sec. 2105.02. ~~When, in Chapter 2105. of the Revised Code~~ 845
~~this chapter,~~ a person is described as living, it means that the 846
person was living at the time of the death of the intestate from 847
whom the estate came and that the person lived for at least one 848
hundred twenty hours following the death of the intestate, and 849
when a person is described as having died, it means that the 850
person died before such intestate or that the person failed to 851
live for at least one hundred twenty hours following the death 852
of the intestate. 853

Sec. 2105.14. ~~Descendants of an intestate begotten before~~ 854
~~the intestate's death, but born after the intestate's death, in~~ 855
~~all cases will inherit as if born in the lifetime of the~~ 856
~~intestate and surviving the intestate; but in no other case can~~ 857
~~a person~~ No descendant of an intestate shall inherit under this 858

~~chapter unless living at the time of the death of surviving the~~ 859
~~intestate for at least one hundred twenty hours, or unless born~~ 860
~~within three hundred days after the death of the intestate and~~ 861
~~living for at least one hundred twenty hours after birth.~~ 862

Sec. 2105.31. As used in sections 2105.31 to ~~2105.39~~ 863
2105.40 of the Revised Code: 864

(A) "Co-owners with right of survivorship" includes joint 865
tenants, tenants by the entirety, and other co-owners of ~~real~~ 866
~~or personal property; insurance or other policies; or bank,~~ 867
~~savings bank, credit union, or other accounts,~~ held under 868
circumstances that entitle one or more ~~persons~~individuals to 869
the whole of the property or account on the death of the other 870
~~person~~individual or ~~persons~~individuals. 871

(B) "Governing instrument" means a deed, will, trust, 872
insurance or annuity policy, account with a transfer-on-death 873
designation or the abbreviation TOD, account with a payable-on- 874
death designation or the abbreviation POD, transfer-on-death 875
designation affidavit, pension, profit-sharing, retirement, or 876
similar benefit plan, instrument creating or exercising a power 877
of appointment or a power of attorney, or a dispositive, 878
appointive, or nominative instrument of any similar type. 879

(C) "Payor" means a trustee, insurer, business entity, 880
employer, government, governmental agency, political subdivision 881
or instrumentality, or any other person authorized or obligated 882
by law or a governing instrument to make payments or transfers. 883

~~(D) "Event" includes the death of another person.~~ 884

Sec. 2105.32. (A) Except as provided in section 2105.36 of 885
the Revised Code, ~~a person~~if title to property, the devolution 886
of property, the right to elect an interest in property, or the 887

right to exempt property, homestead, or allowance for support 888
depends upon an individual's survivorship of the death of 889
another individual, an individual who is not established by 890
clear and convincing evidence to have survived ~~another specified~~ 891
~~person~~ the other individual by one hundred twenty hours is 892
deemed to have predeceased the other ~~person for the following~~ 893
~~purposes:~~ individual. 894

~~(1) When the title to real or personal property or the~~ 895
~~devolution of real or personal property depends upon a person's~~ 896
~~survivorship of the death of another person;~~ 897

~~(2) When the right to elect an interest in or exempt a~~ 898
~~surviving spouse's share of an intestate estate under section~~ 899
~~2105.06 of the Revised Code depends upon a person's survivorship~~ 900
~~of the death of another person;~~ 901

~~(3) When the right to elect an interest in or exempt an~~ 902
~~interest of the decedent in the mansion house pursuant to~~ 903
~~section 2106.10 of the Revised Code depends upon a person's~~ 904
~~survivorship of the death of another person;~~ 905

~~(4) When the right to elect an interest in or exempt an~~ 906
~~allowance for support pursuant to section 2106.13 of the Revised~~ 907
~~Code depends upon a person's survivorship of the death of~~ 908
~~another person.~~ 909

(B) This section does not apply if its application would 910
result in a taking of an intestate estate by the state. 911

Sec. 2105.33. Except as provided in section 2105.36 of the 912
Revised Code, ~~a person~~ an individual who is not established by 913
clear and convincing evidence to have survived ~~a specified~~ an 914
event by one hundred twenty hours is deemed to have predeceased 915
the event for purposes of a provision of a governing instrument 916

that relates to the ~~person~~individual surviving an event, 917
including the death of another individual. 918

Sec. 2105.34. Except as provided in section 2105.36 of the 919
Revised Code, the following shall apply: 920

(A) If it is not established by clear and convincing 921
evidence that one of two co-owners with right of survivorship ~~in~~ 922
~~specified real or personal property~~ survived the other co-owner 923
by one hundred twenty hours, ~~that one-half of the property shall~~ 924
~~pass or account passes as if each person~~one co-owner had 925
survived the other ~~person~~co-owner by one hundred twenty hours, 926
and one-half of the property or account passes as if the other 927
co-owner had survived the one co-owner by one hundred twenty 928
hours. 929

(B) If there are more than two co-owners with right of 930
survivorship ~~in specified real or personal property~~ and it is 931
not established by clear and convincing evidence that at least 932
one of the co-owners survived the others by one hundred twenty 933
hours, ~~that the property shall pass or account passes in the~~ 934
proportion that each person owns one co-owner's ownership bears 935
to the ownership of the whole number of co-owners. 936

Sec. 2105.35. In addition to any provisions of the Rules 937
of Evidence, the following provisions relating to the 938
determination of death and status apply: 939

(A) (1) ~~A person is dead if the person has been determined~~ 940
~~to be dead pursuant to standards established under section~~ 941
~~2108.40 of the Revised Code~~An individual is dead if the 942
individual has sustained either irreversible cessation of 943
circulatory and respiratory functions or irreversible cessation 944
of all functions of the brain, including the brain stem, as 945

determined in accordance with accepted medical standards. If the 946
respiratory and circulatory functions of an individual are being 947
artificially sustained, under accepted medical standards a 948
determination that death has occurred is made by a physician by 949
observing and conducting a test to determine that the 950
irreversible cessation of all functions of the brain has 951
occurred. 952

(2) A physician who makes a determination of death in 953
accordance with division (A) of this section~~2108.40 of the~~ 954
~~Revised Code and any person who acts in good faith in reliance~~ 955
~~on a determination of death made by a physician in accordance~~ 956
~~with that section is entitled to the immunity conveyed by that~~ 957
~~section and accepted medical standards is not liable for damages~~ 958
in any civil action or subject to prosecution in any criminal 959
proceeding for the physician's acts or the acts of others based 960
on that determination. 961

(3) Any person who acts in good faith and relies on a 962
determination of death made by a physician in accordance with 963
division (A) of this section and accepted medical standards is 964
not liable for damages in any civil action or subject to 965
prosecution in any criminal proceeding for the person's actions. 966

(B) A certified or authenticated copy of a death 967
certificate purporting to be issued by an official or agency of 968
the place where the death of ~~a person~~an individual purportedly 969
occurred is prima-facie evidence of the fact, place, date, and 970
time of the ~~person's~~individual's death and the identity of the 971
decedent. 972

(C) A certified or authenticated copy of any record or 973
report of a domestic or foreign governmental agency that ~~a~~ 974
~~person~~an individual is missing, detained, dead, or alive is 975

prima-facie evidence of the status and of the dates, 976
circumstances, and places disclosed by the record or report. 977

(D) In the absence of prima-facie evidence of death under 978
division (B) or (C) of this section, the fact of death may be 979
established by clear and convincing evidence, including 980
circumstantial evidence. 981

(E) Except as provided in division (F) of this section, a 982
presumption of the death of ~~a person~~ an individual arises when 983
either of the following applies: 984

(1) ~~When the person~~ The individual has disappeared and has 985
been continuously absent from the ~~person's~~ individual's place of 986
last domicile for a five-year period without being heard from 987
during the period; 988

(2) ~~When the person~~ The individual has disappeared and has 989
been continuously absent from the ~~person's~~ individual's place of 990
last domicile without being heard from and was at the beginning 991
of the ~~person's~~ individual's absence exposed to a specific peril 992
of death, even though the absence has continued for less than a 993
five-year period. 994

(F) When ~~a person~~ an individual who is on active duty in 995
the armed services of the United States has been officially 996
determined to be absent in a status of "missing" or "missing in 997
action," a presumption of death arises when the head of the 998
federal department concerned has made a finding of death 999
pursuant to the "Federal Missing Persons Act," 80 Stat. 625 1000
(1966), 37 U.S.C.A. 551, as amended. 1001

(G) In the absence of evidence disputing the time of death 1002
stipulated on a document described in division (B) or (C) of 1003
this section, a document described in either of those divisions 1004

that stipulates a time of death of an individual one hundred 1005
twenty hours or more after the time of death of another ~~person~~ 1006
individual, however the time of death of the other ~~person~~ 1007
individual is determined, establishes by clear and convincing 1008
evidence that the ~~person~~ individual survived the other ~~person~~ 1009
individual by one hundred twenty hours. 1010

~~(H) The provisions of divisions (A) to (G) of this section~~ 1011
~~are in addition to any other provisions of the Revised Code, the~~ 1012
~~Rules of Criminal Procedure, or the Rules of Evidence that~~ 1013
~~pertain to the determination of death and status of a person.~~ 1014

Sec. 2105.36. ~~A person who is not established by clear and~~ 1015
~~convincing evidence to have survived another specified person by~~ 1016
~~one hundred twenty hours shall not be deemed to have predeceased~~ 1017
~~the other person~~ Survival by one hundred twenty hours is not 1018
required if any of the following ~~apply~~ applies: 1019

(A) The governing instrument contains language dealing 1020
explicitly with simultaneous deaths or deaths in a common 1021
disaster, and that language is ~~operative~~ operable under the 1022
~~situation in question~~ facts of the case. 1023

(B) The governing instrument expressly indicates that a 1024
~~person~~ an individual is not required to survive an event, 1025
including the death of another individual, by any specified 1026
~~period in order for any right or interest governed by the~~ 1027
~~instrument to properly vest or transfer~~, or expressly requires 1028
the individual to survive the event for a specified period, but 1029
the survival of the event for the specified period shall be 1030
established by clear and convincing evidence. 1031

(C) ~~The governing instrument expressly requires the person~~ 1032
~~to survive the event for a specified period in order for any~~ 1033

~~right or interest governed by the instrument to properly vest or transfer, and the survival of the event by the person or survival of the event by the person for the specified period is established by clear and convincing evidence.~~ 1034
1035
1036
1037

~~(D)~~ The imposition of a one-hundred-twenty-hour requirement of ~~the person's survival of the other specified person causes would cause~~ a nonvested property interest or a power of appointment to be invalid under section 2131.08 of the Revised Code, ~~and but~~ the ~~person's survival of the other specified person is~~ shall be established by clear and convincing evidence. 1038
1039
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1044

~~(E)~~ ~~(D)~~ The application of a one-hundred-twenty-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition, ~~and but~~ the ~~person's survival of the other specified person is~~ shall be established by clear and convincing evidence. 1045
1046
1047
1048
1049

Sec. 2105.37. (A) A payor or other third party is not liable for any of the following: 1050
1051

(1) ~~Making~~ Having made a payment, ~~transferring or transferred~~ an item of ~~real or personal~~ property, or ~~otherwise transferring~~ any other benefit to a person designated in a governing instrument who, under sections 2105.31 to ~~2105.39~~ 2105.40 of the Revised Code, is not entitled to the payment or item of property or other benefit, if the payment or transfer was made before the payor or other third party received written notice of a claimed lack of entitlement ~~pursuant to~~ under those sections ~~2105.31 to 2105.39~~ of the Revised Code; 1052
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(2) ~~Taking~~ Having taken any other action ~~not specified in~~ ~~division (A) (1) of this section~~ in good faith reliance on the 1061
1062

person's apparent entitlement under the terms of the governing 1063
instrument before the payor or other third party received 1064
written notice of a claimed lack of entitlement ~~pursuant to~~ 1065
under sections 2105.31 to ~~2105.39~~ 2105.40 of the Revised Code. 1066

(B) A payor or other third party is liable for a payment, 1067
transfer, or other action taken after the payor or other third 1068
party receives written notice of a claimed lack of entitlement 1069
~~pursuant to~~ under sections 2105.31 to ~~2105.39~~ 2105.40 of the 1070
Revised Code. 1071

(C) Written notice of a claimed lack of entitlement under 1072
~~divisions~~ division (A) or (B) of this section ~~must~~ shall be 1073
mailed to the payor's or other third party's main office or home 1074
by registered or certified mail, return receipt requested, or 1075
served upon the payor or other third party in the same manner as 1076
a summons in a civil action. Upon receipt of written notice of a 1077
claimed lack of entitlement ~~pursuant to~~ under sections 2105.31 1078
to ~~2105.39~~ 2105.40 of the Revised Code, a payor or other third 1079
party may pay any amount owed or transfer or deposit any item of 1080
~~real or personal~~ property held by it to or with the probate 1081
court that has jurisdiction over the decedent's estate. If no 1082
probate proceedings have been commenced, upon receipt of written 1083
notice of a claimed lack of entitlement ~~pursuant to~~ under 1084
sections 2105.31 to ~~2105.39~~ 2105.40 of the Revised Code, a payor 1085
or other third party may pay any amount owed or transfer or 1086
deposit any item of ~~real or personal~~ property held by it to or 1087
with the probate court located in the county of the decedent's 1088
residence. The court shall hold the funds or ~~real or personal~~ 1089
items of property until it is determined pursuant to, and upon 1090
its determination under sections 2105.31 to ~~2105.39~~ 2105.40 of 1091
the Revised Code to whom the funds or ~~real or personal~~ items of 1092
property should be disbursed, shall order disbursement in 1093

~~accordance with its determination. The court then shall order~~ 1094
~~disbursement of the funds or real or personal property in~~ 1095
~~accordance with that determination. Payments, transfers, or~~ 1096
deposits made to or with the court discharge the payor or other 1097
third party from all claims for the value of amounts paid to or 1098
items of property transferred to or deposited with the court. 1099

(D) A person who purchases property for value or receives 1100
a payment or other item of property or benefit in partial or 1101
full satisfaction of a legally enforceable obligation, and 1102
without notice that the person selling or transferring the 1103
property or benefit or making a payment is not entitled to the 1104
property or benefit under sections 2105.31 to 2105.40 of the 1105
Revised Code, is neither obligated under those sections to 1106
return the payment or item of property or benefit nor liable 1107
under those sections for the amount of the payment or the value 1108
of the item of property or benefit. 1109

(E) A person who, not for value, receives a payment, item 1110
of property, or any other benefit to which the person is not 1111
entitled under sections 2105.31 to 2105.40 of the Revised Code 1112
is obligated to return the payment, item of property, or 1113
benefit, or is personally liable for the amount of the payment 1114
or the value of the item of property or benefit, to the person 1115
who is entitled to it under sections 2105.31 to 2105.40 of the 1116
Revised Code. 1117

(F) If sections 2105.31 to 2105.40 of the Revised Code or 1118
any provision of those sections are preempted by federal law 1119
with respect to a payment, an item of property, or any other 1120
benefit covered by those sections, a person who, not for value, 1121
receives the payment, item of property, or other benefit to 1122
which the person is not entitled under sections 2105.31 to 1123

2105.40 of the Revised Code is obligated to return the payment, 1124
item of property, or benefit, or is personally liable for the 1125
amount of the payment or the value of the item of property or 1126
benefit, to the person who would have been entitled to it were 1127
sections 2105.31 to 2105.40 of the Revised Code or any provision 1128
of those sections not preempted. 1129

Sec. ~~2105.39~~ 2105.38. (A) Sections 2105.31 to ~~2105.39~~ 1130
2105.40 of the Revised Code do not impair any act done in any 1131
proceeding, or any right that accrued, before ~~May 16, 2002~~ the 1132
effective date of the amendment of this section. If a right is 1133
acquired, extinguished, or barred upon the expiration of a 1134
prescribed period of time that has commenced to run, prior to 1135
May 16, 2002 the effective date of the amendment of this 1136
section, under any provision of the Revised Code, the provision 1137
of the applicable section of the Revised Code applies with 1138
respect to that right. 1139

(B) Any rule of construction ~~or presumption regarding any~~ 1140
provision of a governing instrument that is provided in sections 1141
2105.31 to ~~2105.39~~ 2105.40 of the Revised Code applies to any 1142
governing instrument that is executed, ~~or any multiple party~~ 1143
~~account that is opened,~~ prior to May 16, 2002 the effective date 1144
of the amendment of this section, unless there is a clear 1145
indication of a contrary intent in the governing instrument ~~or~~ 1146
~~multiple party account~~. 1147

~~(C) If any provision of sections 2105.31 to 2105.39 of the~~ 1148
~~Revised Code or the application of those sections to any persons~~ 1149
~~or circumstance is held invalid, the invalidity does not affect~~ 1150
~~other provisions or applications of sections 2105.31 to 2105.39~~ 1151
~~of the Revised Code that can be given effect without the invalid~~ 1152
~~provision or application.~~ 1153

Sec. 2105.39. Sections 2105.31 to 2105.40 of the Revised Code shall be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of those sections among the states enacting the law. 1154
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Sec. 2105.40. Sections 2105.31 to 2105.40 of the Revised Code may be cited as the uniform simultaneous death act. 1158
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Sec. 2106.13. (A) If a person dies leaving a surviving spouse and no minor children, leaving a surviving spouse and minor children, or leaving minor children and no surviving spouse, the surviving spouse, minor children, or both shall be entitled to receive, subject to division (B) of this section, in money or property the sum of forty thousand dollars as an allowance for support. If the surviving spouse selected ~~two-one~~ or more automobiles under section 2106.18 of the Revised Code, the allowance for support prescribed by this section shall be reduced by the value of the automobile having the ~~lower~~ lowest value of the ~~two automobiles~~ if more than one automobile is so selected. The money or property set off as an allowance for support shall be considered estate assets. 1160
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(B) The probate court shall order the distribution of the allowance for support described in division (A) of this section as follows: 1173
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(1) If the person died leaving a surviving spouse and no minor children, one hundred per cent to the surviving spouse; 1176
1177

(2) If the person died leaving a surviving spouse and minor children, and if all of the minor children are the children of the surviving spouse, one hundred per cent to the surviving spouse; 1178
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(3) If the person died leaving a surviving spouse and 1182

minor children, and if not all of the minor children are 1183
children of the surviving spouse, in equitable shares, as fixed 1184
by the probate court in accordance with this division, to the 1185
surviving spouse and the minor children who are not the children 1186
of the surviving spouse. In determining equitable shares under 1187
this division, the probate court shall do all of the following: 1188

(a) Consider the respective needs of the surviving spouse, 1189
the minor children who are children of the surviving spouse, and 1190
the minor children who are not children of the surviving spouse; 1191

(b) Allocate to the surviving spouse, the share that is 1192
equitable in light of the needs of the surviving spouse and the 1193
minor children who are children of the surviving spouse; 1194

(c) Allocate to the minor children who are not children of 1195
the surviving spouse, the share that is equitable in light of 1196
the needs of those minor children. 1197

(4) If the person died leaving minor children and no 1198
surviving spouse, in equitable shares, as fixed by the probate 1199
court in accordance with this division, to the minor children. 1200
In determining equitable shares under this division, the probate 1201
court shall consider the respective needs of the minor children 1202
and allocate to each minor child the share that is equitable in 1203
light of the child's needs. 1204

(C) If the surviving spouse selected ~~two~~ one or more 1205
automobiles under section 2106.18 of the Revised Code, the 1206
probate court, in considering the respective needs of the 1207
surviving spouse and the minor children when allocating an 1208
allowance for support under division (B) (3) of this section, 1209
shall consider the benefit derived by the surviving spouse from 1210
the transfer of the automobile having the ~~lower~~ lowest value ~~of~~ 1211

~~the two automobiles~~ if more than one automobile is so selected. 1212

(D) If, pursuant to this section, the probate court must 1213
allocate the allowance for support, the administrator or 1214
executor, within five months of the initial appointment of an 1215
administrator or executor, shall file with the probate court an 1216
application to allocate the allowance for support. 1217

(E) The administrator or executor shall pay the allowance 1218
for support unless a competent adult or a guardian with the 1219
consent of the court having jurisdiction over the guardianship 1220
waives the allowance for support to which the adult or the ward 1221
represented by the guardian is entitled. 1222

(F) For the purposes of this section, the value of an 1223
automobile that a surviving spouse selects pursuant to section 1224
2106.18 of the Revised Code is the value that the surviving 1225
spouse specifies for the automobile in the affidavit executed 1226
pursuant to division (B) of section 4505.10 of the Revised Code. 1227

Sec. 2106.18. (A) Upon the death of a married resident who 1228
owned at least one automobile at the time of death, the interest 1229
of the deceased spouse in ~~up to two~~ one or more automobiles that 1230
are not transferred to the surviving spouse due to joint 1231
ownership with right of survivorship established under section 1232
2131.12 of the Revised Code, that are not transferred to a 1233
transfer-on-death beneficiary or beneficiaries designated under 1234
section 2131.13 of the Revised Code, and that are not otherwise 1235
specifically disposed of by testamentary disposition may be 1236
selected by the surviving spouse. This interest shall 1237
immediately pass to the surviving spouse upon transfer of the 1238
title or titles in accordance with section 4505.10 of the 1239
Revised Code. The sum total of the values of the automobiles 1240
selected by a surviving spouse under this division, as specified 1241

in the affidavit that the surviving spouse executes pursuant to 1242
division (B) of section 4505.10 of the Revised Code, shall not 1243
exceed ~~forty-sixty-five~~ thousand dollars. Each automobile that 1244
passes to a surviving spouse under this division shall not be 1245
considered an estate asset and shall not be included in the 1246
estate inventory. 1247

(B) The executor or administrator, with the approval of 1248
the probate court, may transfer title to an automobile owned by 1249
the decedent to any of the following: 1250

(1) The surviving spouse, when the automobile is purchased 1251
by the surviving spouse pursuant to section 2106.16 of the 1252
Revised Code; 1253

(2) A distributee; 1254

(3) A purchaser. 1255

(C) The executor or administrator may transfer title to an 1256
automobile owned by the decedent without the approval of the 1257
probate court to any of the following: 1258

(1) A legatee entitled to the automobile under the terms 1259
of the will; 1260

(2) A distributee if the distribution of the automobile is 1261
made without court order pursuant to section 2113.55 of the 1262
Revised Code; 1263

(3) A purchaser if the sale of the automobile is made 1264
pursuant to section 2113.39 of the Revised Code. 1265

(D) As used in division (A) of this section, "automobile" 1266
includes a motorcycle and includes a truck if the truck was used 1267
as a method of conveyance by the deceased spouse or the deceased 1268
spouse's family when the deceased spouse was alive. 1269

Sec. 2107.07. A will may be deposited by the testator, or 1270
by some person for the testator, in the office of the judge of 1271
the probate court in the county in which the testator lives, 1272
before or after the death of the testator, and if deposited 1273
after the death of the testator, with or without applying for 1274
its probate. Upon the payment of the fee of twenty-five dollars 1275
to the court, the judge shall receive, keep, and give a 1276
certificate of deposit for the will. That will shall be safely 1277
kept until delivered or disposed of as provided by section 1278
2107.08 of the Revised Code. If the will is not delivered or 1279
disposed of as provided in that section within one hundred years 1280
after the date the will was deposited, the judge may dispose of 1281
the will in any manner the judge considers feasible. The judge, 1282
~~on being paid the fee of five dollars, shall receive, keep, and~~ 1283
~~give a certificate of deposit for~~ shall retain an electronic 1284
copy of the will prior to its disposal after one hundred years 1285
under this section. 1286

Every will that is so deposited shall be enclosed in a 1287
sealed envelope that shall be indorsed with the name of the 1288
testator. The judge shall indorse on the envelope the date of 1289
delivery and the person by whom the will was delivered. The 1290
envelope may be indorsed with the name of a person to whom it is 1291
to be delivered after the death of the testator. The will shall 1292
not be opened or read until delivered to a person entitled to 1293
receive it, until the testator files a complaint in the probate 1294
court for a declaratory judgment of the validity of the will 1295
pursuant to section 2107.081 of the Revised Code, or until 1296
otherwise disposed of as provided in section 2107.08 of the 1297
Revised Code. Subject to section 2107.08 of the Revised Code, 1298
the deposited will shall not be a public record until the time 1299
that an application is filed to probate it. 1300

Sec. 2107.10. (A) No property or right, testate or 1301
intestate, shall pass to a beneficiary named in a will who knows 1302
of the existence of the will for one year after the death of the 1303
testator and has the power to control it and, without reasonable 1304
cause, intentionally conceals or withholds it or neglects or 1305
refuses within that one year to cause it to be offered for or 1306
admitted to probate. The property devised or bequeathed to that 1307
beneficiary shall ~~descend to the heirs of the testator, not~~ 1308
~~including any heir who has concealed or withheld the will~~ pass 1309
as if the beneficiary had predeceased the testator. 1310

(B) No property or right, testate or intestate, passes to 1311
a beneficiary named in a will when the will was declared valid 1312
and filed with a probate judge pursuant to section 2107.084 of 1313
the Revised Code, the declaration and filing took place in a 1314
county different from the county in which the will of the 1315
testator would be probated under section 2107.11 of the Revised 1316
Code, and the named beneficiary knew of the declaration and 1317
filing and of the death of the testator and did not notify the 1318
probate judge with whom the will was filed. This division does 1319
not preclude a named beneficiary from acquiring property or 1320
rights from the estate of the testator for failing to notify a 1321
probate judge if the named beneficiary reasonably believes that 1322
the judge has previously been notified of the testator's death. 1323

Sec. 2109.62. (A) (1) Upon the filing of a motion by a 1324
trustee with the court that has jurisdiction over the trust, 1325
upon the provision of reasonable notice to all beneficiaries who 1326
are known and in being and who have vested or contingent 1327
interests in the trust, and after holding a hearing, the court 1328
may terminate the trust, in whole or in part, if it determines 1329
that all of the following apply: 1330

(a) It is no longer economically feasible to continue the trust. 1331
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(b) The termination of the trust is for the benefit of the beneficiaries. 1333
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(c) The termination of the trust is equitable and practical. 1335
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(d) The current value of the trust is less than one hundred thousand dollars. 1337
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(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. 1339
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(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. 1342
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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 1351
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distribution of the trust estate among the beneficiaries of the 1360
trust under this division, the court shall consider all of the 1361
following: 1362

(1) The existence of any agreement among the beneficiaries 1363
with respect to their beneficial interests; 1364

(2) The actuarial values of the separate beneficial 1365
interests of the beneficiaries; 1366

(3) Any expression of preference of the beneficiaries that 1367
is contained in the trust instrument. 1368

Sec. 2111.131. (A) The probate court may enter an order 1369
that authorizes a person under a duty to pay or deliver money or 1370
personal property to a minor who does not have a guardian of the 1371
person and estate or a guardian of the estate, to perform that 1372
duty in amounts not exceeding five thousand dollars annually, by 1373
paying or delivering the money or property to any of the 1374
following: 1375

(1) The guardian of the person only of the minor; 1376

(2) The minor's natural guardians, if any, as determined 1377
pursuant to section 2111.08 of the Revised Code; 1378

(3) The minor; 1379

(4) Any person who has the care and custody of the minor 1380
and with whom the minor resides, other than a guardian of the 1381
person only or a natural guardian; 1382

(5) A financial institution incident to a deposit in a 1383
federally insured savings account in the sole name of the minor; 1384

(6) A custodian designated by the court in its order, for 1385
the minor under sections 5814.01 to ~~5814.09~~ 5814.10 of the 1386

Revised Code. 1387

(B) An order entered pursuant to division (A) of this 1388
section authorizes the person or entity specified in it, to 1389
receive the money or personal property on behalf of the minor 1390
from the person under the duty to pay or deliver it, in amounts 1391
not exceeding five thousand dollars annually. Money or personal 1392
property so received by guardians of the person only, natural 1393
guardians, and custodians as described in division (A)(4) of 1394
this section may be used by them only for the support, 1395
maintenance, or education of the minor involved. The order of 1396
the court is prima-facie evidence that a guardian of the person 1397
only, a natural guardian, or a custodian as described in 1398
division (A)(4) of this section has the authority to use the 1399
money or personal property received. 1400

(C) A person who pays or delivers moneys or personal 1401
property in accordance with a court order entered pursuant to 1402
division (A) of this section is not responsible for the proper 1403
application of the moneys or property by the recipient. 1404

Sec. 2113.86. (A) Unless a will or another governing 1405
instrument otherwise provides, and except as otherwise provided 1406
in this section, a tax shall be apportioned equitably in 1407
accordance with the provisions of this section among all persons 1408
interested in an estate in proportion to the value of the 1409
interest of each person as determined for estate tax purposes. 1410

(B) Except as otherwise provided in this division, any tax 1411
that is apportioned against a gift made in a clause of a will 1412
other than a residuary clause or in a provision of an inter 1413
vivos trust other than a residuary provision, shall be 1414
reapportioned to the residue of the estate or trust. It shall be 1415
charged in the same manner as a general administration expense. 1416

However, when a portion of the residue of the estate or trust is 1417
allowable as a deduction for estate tax purposes, the tax shall 1418
be reapportioned to the extent possible to the portion of the 1419
residue that is not so allowable. 1420

(C) (1) A tax shall not be apportioned against an interest 1421
that is allowable as an estate tax marital or charitable 1422
deduction, except to the extent that the interest is a part of 1423
the residue of an estate or trust against which tax is 1424
reapportioned pursuant to division (B) of this section. 1425

(2) Estate tax of this state or another jurisdiction shall 1426
not be reapportioned against an interest that is allowable as a 1427
deduction for federal estate tax purposes, to the extent that 1428
there is other property in the estate or trust that is not 1429
allowable as a deduction for federal estate tax purposes and 1430
against which estate tax of this state or another jurisdiction 1431
can be apportioned. 1432

(3) A provision in a will or other governing instrument 1433
that apportions tax to an interest that is otherwise allowable 1434
as an estate tax marital or charitable deduction is ineffective 1435
unless it refers to the marital or charitable deduction and 1436
expressly and unambiguously acknowledges and accepts any 1437
resultant partial loss of the deduction. 1438

(D) A tax shall not be apportioned against property that 1439
passes to a surviving spouse as an elective share under section 1440
2106.01 of the Revised Code or as an intestate share under 1441
section 2105.06 of the Revised Code, to the extent that there is 1442
other property in the estate that is not allowable as a 1443
deduction for estate tax purposes against which the tax can be 1444
apportioned. 1445

(E) (1) Any federal estate tax credit for state or foreign death taxes on property that is includible in an estate for federal estate tax purposes, shall inure to the benefit of the persons chargeable with the payment of the state or foreign death taxes in proportion to the amount of the taxes paid by each person, but any federal estate tax credit for state or foreign death taxes inuring to the benefit of a person cannot exceed the federal estate tax apportioned to that person.

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

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

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

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

(H) Penalties shall be apportioned in the same manner as a tax, and interest on tax shall be apportioned to the income of the estate or trust, unless a court directs a different

apportionment of penalties or interest based on a finding that 1475
special circumstances make an apportionment as provided in this 1476
division inequitable. 1477

(I) If any part of an estate consists of property, the 1478
value of which is included in the gross estate of the decedent 1479
by reason of section 2044 of the "Internal Revenue Code of 1480
1986," 100 Stat. 2085, 26 N 2044, as amended, or of section 1481
5731.131 of the Revised Code, the estate is entitled to recover 1482
from the persons holding or receiving the property any amount by 1483
which the estate tax payable exceeds the estate tax that would 1484
have been payable if the value of the property had not been 1485
included in the gross estate of the decedent. This division does 1486
not apply if the decedent's will or another governing instrument 1487
provides otherwise and the will or instrument refers to either 1488
section mentioned in this division or to qualified terminable 1489
interest marital deduction property. 1490

Sec. 2127.012. (A) In addition to the other methods 1491
provided by law, a guardian of the estate may sell at public or 1492
private sale, grant options to sell, exchange, re-exchange, or 1493
otherwise dispose of any parcel of real estate belonging to the 1494
estate at any time, at prices, and upon terms that are 1495
consistent with this section, and may execute and deliver deeds 1496
and other instruments of conveyance if all of the following 1497
conditions are met: 1498

(1) The ward's spouse and all persons entitled to the next 1499
estate of inheritance from the ward in the real property give 1500
written consent to a power of sale for a particular parcel of 1501
real estate or to a power of sale for all the real estate 1502
belonging to the estate. Each consent to a power of sale 1503
provided for in this section shall be filed in the probate 1504

court. 1505

(2) Any sale under a power of sale authorized under this 1506
section shall be made at a price of at least eighty per cent of 1507
the appraised value, as set forth in an approved inventory, if 1508
the real estate was appraised within two years prior to the 1509
filing of the consents. If the value of the real estate in an 1510
approved inventory was not determined by an appraisal, or the 1511
appraisal was completed more than two years prior to the 1512
filing of the consents, the real estate shall be appraised and a 1513
sale shall be made at a price of at least eighty per cent of the 1514
appraised value. 1515

(3) No power of sale provided for in this section is 1516
effective if the ward's spouse or any next of kin is a minor. No 1517
person may give the consent of the minor that is required by 1518
this section. 1519

(4) Upon filing the consents under this section, the 1520
guardian shall execute such bond or additional bond payable to 1521
the state in an amount that the court considers sufficient, 1522
having regard to the amount of real property to be sold, its 1523
appraised value, the amount of the original bond given by the 1524
guardian, and the distribution to be made of the proceeds 1525
arising from the sale. 1526

(B) A ward's spouse who is the guardian of the estate may 1527
sell real estate to self pursuant to this section. 1528

Sec. 2137.01. As used in this chapter: 1529

(A) "Account" means an arrangement under a terms-of- 1530
service agreement in which a custodian carries, maintains, 1531
processes, receives, or stores a digital asset of the user or 1532
provides goods or services to the user. 1533

(B) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated as agent, attorney in fact, or otherwise. 1534
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(C) "Carries" means engages in the transmission of an electronic communication. 1537
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(D) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person. 1539
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(E) "Content of an electronic communication" means information concerning the substance or meaning of the communication that meets all of the following conditions: 1543
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(1) It has been sent or received by a user. 1546

(2) It is in electronic storage by a custodian providing an electronic-communication service to the public or is carried or maintained by a custodian providing a remote-computing service to the public. 1547
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(3) It is not readily accessible to the public. 1551

(F) "Court" means the probate court for all matters in which the court has exclusive jurisdiction under section 2101.24 of the Revised Code. "Court" also includes the probate court or the general division of the court of common pleas for matters in which such courts have concurrent jurisdiction under section 2101.24 of the Revised Code. 1552
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(G) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user. 1558
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(H) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user. 1560
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(I) "Digital asset" means an electronic record in which an individual has a right or interest. "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record. 1562
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(J) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. 1566
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(K) "Electronic communication" has the same meaning as in 18 U.S.C. 2510(12), as amended. 1569
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(L) "Electronic-communication service" means a custodian that provides to a user the ability to send or receive an electronic communication. 1571
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(M) "Fiduciary" means an original, additional, or successor agent, guardian, personal representative, or trustee. 1574
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(N) (1) "Guardian" means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or the person and the estate of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes both of the following: 1576
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(a) An agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent; 1584
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(b) A conservator appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of 1589
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the Revised Code. 1591

(2) "Guardian" does not include a guardian under sections 1592
5905.01 to 5905.19 of the Revised Code. 1593

(O) "Information" means data, text, images, videos, 1594
sounds, codes, computer programs, software, databases, or the 1595
like. 1596

(P) "Online tool" means an electronic service provided by 1597
a custodian that allows the user, in an agreement distinct from 1598
the terms-of-service agreement between the custodian and user, 1599
to provide directions for disclosure or nondisclosure of digital 1600
assets to a third person. 1601

(Q) "Person" means an individual, corporation, business 1602
trust, estate, trust, partnership, limited liability company, 1603
association, joint venture, government, governmental agency or 1604
instrumentality, public corporation, or any other legal or 1605
commercial entity. 1606

(R) "Personal representative" means an executor, 1607
administrator, special administrator, or other person acting 1608
under the authority of the probate court to perform 1609
substantially the same function under the law of this state. 1610
"Personal representative" also includes a commissioner in a 1611
release of assets from administration under section 2113.03 of 1612
the Revised Code and an applicant for summary release from 1613
administration under section 2113.031 of the Revised Code. 1614

(S) "Power of attorney" means a writing or other record 1615
that grants authority to an agent to act in the place of the 1616
principal. 1617

(T) "Principal" means an individual who grants authority 1618
to an agent in a power of attorney. 1619

(U) "Record" means information that is inscribed on a 1620
tangible medium or that is stored in an electronic or other 1621
medium and is retrievable in perceivable form. 1622

(V) "Remote-computing service" means a custodian that 1623
provides to a user computer-processing services or the storage 1624
of digital assets by means of an electronic communications 1625
system, as defined in 18 U.S.C. 2510(14), as amended. 1626

(W) "Terms-of-service agreement" means an agreement that 1627
controls the relationship between a user and a custodian. 1628

(X) "Trustee" means a fiduciary with legal title to 1629
property pursuant to an agreement or declaration that creates a 1630
beneficial interest in another. "Trustee" includes an original, 1631
additional, and successor trustee and a cotrustee. 1632

(Y) "User" means a person that has an account with a 1633
custodian. 1634

(Z) "Ward" means any person for whom a guardian is acting 1635
or for whom the probate court is acting pursuant to section 1636
2111.50 of the Revised Code. "Ward" includes a person for whom a 1637
conservator has been appointed by the probate court in an order 1638
of conservatorship issued pursuant to section 2111.021 of the 1639
Revised Code. 1640

(AA) "Will" includes codicils to wills admitted to 1641
probate, lost, spoliated, or destroyed wills, and instruments 1642
admitted to probate under section 2107.081 of the Revised Code. 1643
"Will" does not include inter vivos trusts or other instruments 1644
that have not been admitted to probate. 1645

Sec. 2137.02. (A) This chapter applies to all of the 1646
following: 1647

(1) An agent acting under a power of attorney executed 1648
before, on, or after the effective date of this section; 1649

(2) A personal representative acting for a decedent who 1650
died before, on, or after the effective date of this section; 1651

(3) A guardianship proceeding commenced before, on, or 1652
after the effective date of this section; 1653

(4) A trustee acting under a trust created before, on, or 1654
after the effective date of this section; 1655

(5) A custodian, if the user resides in this state or 1656
resided in this state at the time of the user's death. 1657

(B) This chapter does not apply to a digital asset of an 1658
employer used by an employee in the ordinary course of the 1659
employer's business. 1660

Sec. 2137.03. (A) A user may use an online tool to direct 1661
the custodian to disclose or not to disclose to a designated 1662
recipient some or all of the user's digital assets, including 1663
the content of electronic communications. If the online tool 1664
allows the user to modify or delete a direction at all times, a 1665
direction regarding disclosure using an online tool overrides a 1666
contrary direction by the user in a will, trust, power of 1667
attorney, or other record. 1668

(B) If a user has not used an online tool to give 1669
direction under division (A) of this section, or if the 1670
custodian has not provided an online tool, the user may allow or 1671
prohibit in a will, trust, power of attorney, or other record, 1672
disclosure to a fiduciary of some or all of the user's digital 1673
assets, including the content of electronic communications sent 1674
or received by the user. 1675

(C) A user's direction under division (A) or (B) of this section overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service. 1676
1677
1678
1679

Sec. 2137.04. (A) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user. 1680
1681
1682

(B) This chapter does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents. 1683
1684
1685
1686

(C) A fiduciary's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 2137.03 of the Revised Code. 1687
1688
1689
1690

Sec. 2137.05. (A) When disclosing digital assets of a user under this chapter, the custodian may, at its sole discretion, do any of the following: 1691
1692
1693

(1) Grant a fiduciary or designated recipient full access to the user's account; 1694
1695

(2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; 1696
1697
1698

(3) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account. 1699
1700
1701
1702
1703

(B) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter. 1704
1705
1706

(C) A custodian is not required to disclose under this chapter a digital asset deleted by a user. 1707
1708

(D) If a user directs or a fiduciary requests a custodian to disclose under this chapter some, but not all, of the users digital assets, the custodian is not required to disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose any of the following: 1709
1710
1711
1712
1713
1714
1715

(1) A subset limited by date of the user's digital assets; 1716

(2) All of the user's digital assets to the fiduciary or designated recipient; 1717
1718

(3) None of the user's digital assets; 1719

(4) All of the user's digital assets to the court for review in camera. 1720
1721

Sec. 2137.06. If a deceased user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian all of the following: 1722
1723
1724
1725
1726
1727
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(A) A written request for disclosure in physical or electronic form; 1729
1730

(B) A copy of the death certificate of the user; 1731

(C) A copy of the letter of appointment of the personal representative, the entry appointing a commissioner under division (E) of section 2113.03 of the Revised Code, or the entry granting summary release from administration under division (E) of section 2113.031 of the Revised Code; 1732
1733
1734
1735
1736

(D) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; 1737
1738
1739
1740

(E) If requested by the custodian, any of the following: 1741

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account; 1742
1743
1744

(2) Evidence linking the account to the user; 1745

(3) A finding by the court that one of the following applies: 1746
1747

(a) The user had a specific account with the custodian, identifiable by the information specified in division (E)(1) of this section. 1748
1749
1750

(b) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. 2701 et seq., as amended, 47 U.S.C. 222, as amended, or other applicable law. 1751
1752
1753

(c) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications. 1754
1755
1756

(d) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate. 1757
1758
1759

Sec. 2137.07. Unless the user prohibited disclosure of 1760
digital assets or the court directs otherwise, a custodian shall 1761
disclose to the personal representative of the estate of a 1762
deceased user a catalogue of electronic communications sent or 1763
received by the user and digital assets, other than the content 1764
of electronic communications, of the user, if the personal 1765
representative gives the custodian all of the following: 1766

(A) A written request for disclosure in physical or 1767
electronic form; 1768

(B) A copy of the death certificate of the user; 1769

(C) A copy of the letter of appointment of the personal 1770
representative, the entry appointing a commissioner under 1771
division (E) of section 2113.03 of the Revised Code, or the 1772
entry granting summary release from administration under 1773
division (E) of section 2113.031 of the Revised Code; 1774

(D) If requested by the custodian, any of the following: 1775

(1) A number, username, address, or other unique 1776
subscriber or account identifier assigned by the custodian to 1777
identify the user's account; 1778

(2) Evidence linking the account to the user; 1779

(3) An affidavit stating that disclosure of the user's 1780
digital assets is reasonably necessary for administration of the 1781
estate; 1782

(4) A finding by the court that either of the following 1783
applies: 1784

(a) The user had a specific account with the custodian, 1785
identifiable by the information specified in division (D)(1) of 1786
this section. 1787

(b) Disclosure of the user's digital assets is reasonably 1788
necessary for administration of the estate. 1789

Sec. 2137.08. To the extent a power of attorney expressly 1790
grants an agent authority over the content of electronic 1791
communications sent or received by the principal and unless 1792
directed otherwise by the principal or the court, a custodian 1793
shall disclose to the agent the content if the agent gives the 1794
custodian all of the following: 1795

(A) A written request for disclosure in physical or 1796
electronic form; 1797

(B) A copy of the power of attorney expressly granting the 1798
agent authority over the content of electronic communications of 1799
the principal; 1800

(C) A certification by the agent, under penalty of 1801
perjury, that the power of attorney is in effect; 1802

(D) If requested by the custodian, either of the 1803
following: 1804

(1) A number, username, address, or other unique 1805
subscriber or account identifier assigned by the custodian to 1806
identify the principal's account; 1807

(2) Evidence linking the account to the principal. 1808

Sec. 2137.09. Unless otherwise ordered by the court, 1809
directed by the principal, or provided by a power of attorney, a 1810
custodian shall disclose to an agent with specific authority 1811
over digital assets or general authority to act on behalf of a 1812
principal a catalogue of electronic communications sent or 1813
received by the principal and digital assets, other than the 1814
content of electronic communications, of the principal, if the 1815

agent gives the custodian all of the following: 1816

(A) A written request for disclosure in physical or 1817
electronic form; 1818

(B) A copy of the power of attorney that gives the agent 1819
specific authority over digital assets or general authority to 1820
act on behalf of the principal; 1821

(C) A certification by the agent, under penalty of 1822
perjury, that the power of attorney is in effect; 1823

(D) If requested by the custodian, either of the 1824
following: 1825

(1) A number, username, address, or other unique 1826
subscriber or account identifier assigned by the custodian to 1827
identify the principal's account; 1828

(2) Evidence linking the account to the principal. 1829

Sec. 2137.10. Unless otherwise ordered by the court or 1830
provided in a trust, a custodian shall disclose to a trustee 1831
that is an original user of an account any digital asset of the 1832
account held in trust, including a catalogue of electronic 1833
communications of the trustee and the content of electronic 1834
communications. 1835

Sec. 2137.11. Unless otherwise ordered by the court, 1836
directed by the user, or provided in a trust, a custodian shall 1837
disclose to a trustee that is not an original user of an account 1838
the content of an electronic communication sent or received by 1839
an original or successor user and carried, maintained, 1840
processed, received, or stored by the custodian in the account 1841
of the trust, if the trustee gives the custodian all of the 1842
following: 1843

(A) A written request for disclosure in physical or 1844
electronic form; 1845

(B) Either a copy of the trust instrument that includes 1846
consent to disclosure of the content of electronic 1847
communications to the trustee and a certification by the 1848
trustee, under penalty of perjury, that the trust exists and the 1849
trustee is a currently acting trustee of the trust or a 1850
certification of the trust under section 5810.13 of the Revised 1851
Code that includes a statement that the trust authorizes 1852
disclosure of the content of electronic communications to the 1853
trustee; 1854

(C) If requested by the custodian, either of the 1855
following: 1856

(1) A number, username, address, or other unique 1857
subscriber or account identifier assigned by the custodian to 1858
identify the trust's account; 1859

(2) Evidence linking the account to the trust. 1860

Sec. 2137.12. Unless otherwise ordered by the court, 1861
directed by the user, or provided in a trust, a custodian shall 1862
disclose to a trustee that is not an original user of an account 1863
a catalogue of electronic communications sent or received by an 1864
original or successor user and stored, carried, or maintained by 1865
the custodian in an account of the trust and any digital assets, 1866
other than the content of electronic communications, in which 1867
the trust has a right or interest, if the trustee gives the 1868
custodian all of the following: 1869

(A) A written request for disclosure in physical or 1870
electronic form; 1871

(B) Either a copy of the trust instrument and a 1872

certification by the trustee, under penalty of perjury, that the 1873
trust exists and the trustee is a currently acting trustee of 1874
the trust or a certification of the trust under section 5810.13 1875
of the Revised Code; 1876

(C) If requested by the custodian, either of the 1877
following: 1878

(1) A number, username, address, or other unique 1879
subscriber or account identifier assigned by the custodian to 1880
identify the trust's account; 1881

(2) Evidence linking the account to the trust. 1882

Sec. 2137.13. (A) After an opportunity for a hearing, the 1883
court may grant a guardian access to the digital assets of a 1884
ward. 1885

(B) Unless otherwise ordered by the court or directed by 1886
the user, a custodian shall disclose to a guardian the catalogue 1887
of electronic communications sent or received by a ward and any 1888
digital assets, other than the content of electronic 1889
communications, in which the ward has a right or interest, if 1890
the guardian gives the custodian all of the following: 1891

(1) A written request for disclosure in physical or 1892
electronic form; 1893

(2) A copy of the court order that gives the guardian 1894
authority over the digital assets of the ward; 1895

(3) If requested by the custodian, either of the 1896
following: 1897

(a) A number, username, address, or other unique 1898
subscriber or account identifier assigned by the custodian to 1899
identify the account of the ward; 1900

<u>(b) Evidence linking the account to the ward.</u>	1901
<u>(C) A guardian of the ward may request a custodian of the digital assets of the ward to suspend or terminate an account of the ward for good cause. A request made under this section shall be accompanied by a copy of the court order giving the guardian authority over the ward.</u>	1902 1903 1904 1905 1906
<u>Sec. 2137.14. (A) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including all of the following:</u>	1907 1908 1909
<u>(1) The duty of care;</u>	1910
<u>(2) The duty of loyalty;</u>	1911
<u>(3) The duty of confidentiality.</u>	1912
<u>(B) All of the following apply to a fiduciary's or designated recipient's authority with respect to a digital asset of a user:</u>	1913 1914 1915
<u>(1) Except as otherwise provided in section 2137.03 of the Revised Code, it is subject to the applicable terms of service.</u>	1916 1917
<u>(2) It is subject to other applicable laws, including copyright law.</u>	1918 1919
<u>(3) In the case of a fiduciary, it is limited by the scope of the fiduciary's duties.</u>	1920 1921
<u>(4) It may not be used to impersonate the user.</u>	1922
<u>(C) A fiduciary with authority over the property of a decedent, ward, principal, or settlor has the right to access any digital asset in which the decedent, ward, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.</u>	1923 1924 1925 1926 1927

(D) A fiduciary acting within the scope of the fiduciary's 1928
duties is an authorized user of the property of the decedent, 1929
ward, principal, or settlor for the purpose of applicable 1930
computer fraud and unauthorized computer access laws, including 1931
section 2913.04 of the Revised Code. 1932

(E) Both of the following apply to a fiduciary with 1933
authority over the tangible, personal property of a decedent, 1934
ward, principal, or settlor: 1935

(1) The fiduciary has the right to access the property and 1936
any digital asset stored in it. 1937

(2) The fiduciary is an authorized user for the purpose of 1938
computer fraud and unauthorized computer access laws, including 1939
section 2913.04 of the Revised Code. 1940

(F) A custodian may disclose information in an account to 1941
a fiduciary of the user when the information is required to 1942
terminate an account used to access digital assets licensed to 1943
the user. 1944

(G) A fiduciary of a user may request a custodian to 1945
terminate the user's account. A request for termination shall be 1946
in writing, in either physical or electronic form, and 1947
accompanied by all of the following: 1948

(1) If the user is deceased, a copy of the death 1949
certificate of the user; 1950

(2) A copy of the instrument giving the fiduciary 1951
authority over the account, as follows: 1952

(a) For a personal representative, a copy of the letter of 1953
appointment of the personal representative, the entry appointing 1954
a commissioner under division (E) of section 2113.03 of the 1955

Revised Code, or the entry granting summary release from 1956
administration under division (E) of section 2113.031 of the 1957
Revised Code; 1958

(b) For an agent, a copy of the power of attorney; 1959

(c) For a trustee, either a copy of the trust instrument 1960
and a certification by the trustee, under penalty of perjury, 1961
that the trust exists and the trustee is a currently acting 1962
trustee of the trust or a certification of the trust under 1963
section 5810.13 of the Revised Code; or 1964

(d) For a guardian, a copy of the court order giving the 1965
guardian authority over the ward. 1966

(3) If requested by the custodian, any of the following: 1967

(a) A number, username, address, or other unique 1968
subscriber or account identifier assigned by the custodian to 1969
identify the user's account; 1970

(b) Evidence linking the account to the user; 1971

(c) A finding by the court that the user had a specific 1972
account with the custodian, identifiable by the information 1973
specified in division (G) (3) (a) of this section. 1974

Sec. 2137.15. (A) Not later than sixty days after receipt 1975
of the information required under sections 2137.06 to 2137.13 of 1976
the Revised Code, a custodian shall comply with a request under 1977
this chapter from a fiduciary or designated recipient to 1978
disclose digital assets or terminate an account. If the 1979
custodian fails to comply, the fiduciary or designated recipient 1980
may apply to the court for an order directing compliance. 1981

(B) An order under division (A) of this section directing 1982
compliance shall contain a finding that compliance is not in 1983

violation of 18 U.S.C. 2702, as amended. 1984

(C) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter. 1985
1986
1987

(D) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request. 1988
1989
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1991
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(E) Nothing in this chapter limits a custodian's ability to obtain, or to require a guardian, agent, or designated recipient requesting disclosure or termination under this chapter to obtain, a court order that does all of the following: 1993
1994
1995
1996

(1) Specifies that an account belongs to the ward or principal; 1997
1998

(2) Specifies that there is sufficient consent from the ward or principal to support the requested disclosure; and 1999
2000

(3) Contains a finding required by law other than this chapter. 2001
2002

(F) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter. 2003
2004
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Sec. 2137.16. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. 2006
2007
2008
2009

Sec. 2137.17. This chapter modifies, limits, or supersedes the "Electronic Signatures in Global and National Commerce Act," 2010
2011

15 U.S.C. 7001 et seq., but does not modify, limit, or supersede 2012
15 U.S.C. 7001(c) or authorize electronic delivery of any of the 2013
notices described in 15 U.S.C. 7003(b). 2014

Sec. 2137.18. If any provision of this chapter or its 2015
application to any person or circumstance is held invalid, the 2016
invalidity does not affect other provisions or applications of 2017
this chapter that can be given effect without the invalid 2018
provision or application, and to this end the provisions of this 2019
chapter are severable. 2020

Sec. 2151.541. (A) (1) The juvenile judge may determine 2021
that, for the efficient operation of the juvenile court, 2022
additional funds are required to computerize the court, to make 2023
available computerized legal research services, or to do both. 2024
Upon making a determination that additional funds are required 2025
for either or both of those purposes, the judge shall do one of 2026
the following: 2027

(a) If the judge is clerk of the court, charge one 2028
additional fee not to exceed ~~three~~-six dollars on the filing of 2029
each cause of action or appeal under division (A), (Q), or (U) 2030
of section 2303.20 of the Revised Code; 2031

(b) If the clerk of the court of common pleas serves as 2032
the clerk of the juvenile court pursuant to section 2151.12 of 2033
the Revised Code, authorize and direct the clerk to charge one 2034
additional fee not to exceed ~~three~~-six dollars on the filing of 2035
each cause of action or appeal under division (A), (Q), or (U) 2036
of section 2303.20 of the Revised Code. 2037

(2) All moneys collected under division (A) (1) of this 2038
section shall be paid to the county treasurer. The treasurer 2039
shall place the moneys from the fees in a separate fund to be 2040

disbursed either upon an order of the juvenile judge, subject to 2041
an appropriation by the board of county commissioners, or upon 2042
an order of the juvenile judge, subject to the court making an 2043
annual report available to the public listing the use of all 2044
such funds, in an amount no greater than the actual cost to the 2045
court of procuring and maintaining computerization of the court, 2046
computerized legal research services, or both. 2047

(3) If the court determines that the funds in the fund 2048
described in division (A) (2) of this section are more than 2049
sufficient to satisfy the purpose for which the additional fee 2050
described in division (A) (1) of this section was imposed, the 2051
court may declare a surplus in the fund and, subject to an 2052
appropriation by the board of county commissioners, expend those 2053
surplus funds, or upon an order of the court, subject to the 2054
court making an annual report available to the public listing 2055
the use of all such funds, expend those surplus funds, for other 2056
appropriate technological expenses of the court. 2057

(B) (1) If the juvenile judge is the clerk of the juvenile 2058
court, the judge may determine that, for the efficient operation 2059
of the juvenile court, additional funds are required to make 2060
technological advances in or to computerize the clerk's office 2061
and, upon that determination, may charge an additional fee, not 2062
to exceed ~~ten~~ twenty dollars, on the filing of each cause of 2063
action or appeal, on the filing, docketing, and endorsing of 2064
each certificate of judgment, or on the docketing and indexing 2065
of each aid in execution or petition to vacate, revive, or 2066
modify a judgment under divisions (A), (P), (Q), (T), and (U) of 2067
section 2303.20 of the Revised Code. Subject to division (B) (2) 2068
of this section, all moneys collected under this division shall 2069
be paid to the county treasurer to be disbursed, upon an order 2070
of the juvenile judge and subject to appropriation by the board 2071

of county commissioners, in an amount no greater than the actual 2072
cost to the juvenile court of procuring and maintaining 2073
technology and computer systems for the clerk's office. 2074

(2) If the juvenile judge makes the determination 2075
described in division (B)(1) of this section, the board of 2076
county commissioners may issue one or more general obligation 2077
bonds for the purpose of procuring and maintaining the 2078
technology and computer systems for the office of the clerk of 2079
the juvenile court. In addition to the purposes stated in 2080
division (B)(1) of this section for which the moneys collected 2081
under that division may be expended, the moneys additionally may 2082
be expended to pay debt charges on and financing costs related 2083
to any general obligation bonds issued pursuant to this division 2084
as they become due. General obligation bonds issued pursuant to 2085
this division are Chapter 133. securities. 2086

Sec. 2153.081. (A)(1) The juvenile judges may determine 2087
that, for the efficient operation of their court, additional 2088
funds are required to computerize the court, to make available 2089
computerized legal research services, or both. Upon making a 2090
determination that additional funds are required for either or 2091
both of those purposes, the judges shall authorize and direct 2092
the clerk or a deputy clerk of the court to charge one 2093
additional fee not to exceed ~~three~~six dollars on the filing of 2094
each cause of action or appeal under division (A), (Q), or (U) 2095
of section 2303.20 of the Revised Code. 2096

(2) All moneys collected under division (A)(1) of this 2097
section shall be paid to the county treasurer. The treasurer 2098
shall place the moneys from the fees in a separate fund to be 2099
disbursed, upon an order of the juvenile judges, in an amount no 2100
greater than the actual cost to the court of procuring and 2101

maintaining computer systems for the clerk's office, 2102
computerized legal research services, or both. 2103

(3) If the court determines that the funds in the fund 2104
described in division (A)(2) of this section are more than 2105
sufficient to satisfy the purpose for which the additional fee 2106
described in division (A)(1) of this section was imposed, the 2107
court may declare a surplus in the fund and expend those surplus 2108
funds for other appropriate technological expenses of the court. 2109

(B)(1) The juvenile judges may determine that, for the 2110
efficient operation of their court, additional funds are 2111
required to make technological advances in or to computerize the 2112
office of the clerk of the juvenile court and, upon that 2113
determination, may authorize and direct the clerk or a deputy 2114
clerk of the court to charge an additional fee, not to exceed 2115
~~ten~~ twenty dollars, on the filing of each cause of action or 2116
appeal, on the filing, docketing, and endorsing of each 2117
certificate of judgment, or on the docketing and indexing of 2118
each aid in execution or petition to vacate, revive, or modify a 2119
judgment under divisions (A), (P), (Q), (T), and (U) of section 2120
2303.20 of the Revised Code. Subject to division (B)(2) of this 2121
section, all moneys collected under this division shall be paid 2122
to the county treasurer to be disbursed, upon an order of the 2123
juvenile judges and subject to appropriation by the board of 2124
county commissioners, in an amount no greater than the actual 2125
cost to the juvenile court of procuring and maintaining 2126
technology and computer systems for the clerk's office. 2127

(2) If the juvenile judges make the determination 2128
described in division (B)(1) of this section, the board of 2129
county commissioners may issue one or more general obligation 2130
bonds for the purpose of procuring and maintaining the 2131

technology and computer systems for the office of the clerk of 2132
the juvenile court. In addition to the purposes stated in 2133
division (B)(1) of this section for which the moneys collected 2134
under that division may be expended, the moneys additionally may 2135
be expended to pay debt charges on and financing costs related 2136
to any general obligation bonds issued pursuant to this division 2137
as they become due. General obligation bonds issued pursuant to 2138
this division are Chapter 133. securities. 2139

Sec. 2301.031. (A)(1) The domestic relations judges of a 2140
domestic relations division created by section 2301.03 of the 2141
Revised Code may determine that, for the efficient operation of 2142
their division, additional funds are required to computerize the 2143
division, to make available computerized legal research 2144
services, or both. Upon making a determination that additional 2145
funds are required for either or both of those purposes, the 2146
judges shall do one of the following: 2147

(a) Authorize and direct the clerk or a deputy clerk of 2148
the division to charge one additional fee not to exceed ~~three-~~ 2149
six dollars on the filing of each cause of action or appeal 2150
under division (A), (Q), or (U) of section 2303.20 of the 2151
Revised Code; 2152

(b) If the clerk of the court of common pleas serves as 2153
the clerk of the division, authorize and direct the clerk of the 2154
court of common pleas to charge one additional fee not to exceed 2155
~~three-~~six dollars on the filing of each cause of action or 2156
appeal under division (A), (Q), or (U) of section 2303.20 of the 2157
Revised Code. 2158

(2) All moneys collected under division (A)(1) of this 2159
section shall be paid to the county treasurer. The treasurer 2160
shall place the moneys from the fees in a separate fund to be 2161

disbursed either upon an order of the domestic relations judges, 2162
subject to an appropriation by the board of county 2163
commissioners, or upon an order of the domestic relations judge, 2164
subject to the court making an annual report available to the 2165
public listing the use of all such funds, in an amount no 2166
greater than the actual cost to the division of procuring and 2167
maintaining computerization of the court, computerized legal 2168
research services, or both. 2169

(3) If the court determines that the funds in the fund 2170
described in division (A) (2) of this section are more than 2171
sufficient to satisfy the purpose for which the additional fee 2172
described in division (A) (1) of this section was imposed, the 2173
court may declare a surplus in the fund and, subject to an 2174
appropriation by the board of county commissioners, expend those 2175
surplus funds, or upon an order of the court, subject to the 2176
court making an annual report available to the public listing 2177
the use of all such funds, expend those surplus funds, for other 2178
appropriate technological expenses of the court. 2179

(B) (1) If the clerk of the court of common pleas is not 2180
serving as the clerk of a juvenile or domestic relations 2181
division created by section 2301.03 of the Revised Code, the 2182
juvenile or domestic relations judges may determine that, for 2183
the efficient operation of their division, additional funds are 2184
required to make technological advances in or to computerize the 2185
office of the clerk of their division and, upon that 2186
determination, may authorize and direct the clerk or a deputy 2187
clerk of their division to charge an additional fee, not to 2188
exceed ~~ten~~ twenty dollars, on the filing of each cause of action 2189
or appeal, on the filing, docketing, and endorsing of each 2190
certificate of judgment, or on the docketing and indexing of 2191
each aid in execution or petition to vacate, revive, or modify a 2192

judgment under divisions (A), (P), (Q), (T), and (U) of section 2193
2303.20 of the Revised Code. Subject to division (B)(2) of this 2194
section, all moneys collected under this division shall be paid 2195
to the county treasurer to be disbursed, upon an order of the 2196
juvenile or domestic relations judges and subject to 2197
appropriation by the board of county commissioners, in an amount 2198
no greater than the actual cost to the juvenile or domestic 2199
relations division of procuring and maintaining technology and 2200
computer systems for the clerk's office. 2201

(2) If juvenile or domestic relations judges make the 2202
determination described in division (B)(1) of this section, the 2203
board of county commissioners may issue one or more general 2204
obligation bonds for the purpose of procuring and maintaining 2205
the technology and computer systems for the office of the clerk 2206
of the juvenile or domestic relations division. In addition to 2207
the purposes stated in division (B)(1) of this section for which 2208
the moneys collected under that division may be expended, the 2209
moneys additionally may be expended to pay debt charges on and 2210
financing costs related to any general obligation bonds issued 2211
pursuant to this division as they become due. General obligation 2212
bonds issued pursuant to this division are Chapter 133. 2213
securities. 2214

Sec. 4505.10. (A) In the event of the transfer of 2215
ownership of a motor vehicle by operation of law, as upon 2216
inheritance, devise, bequest, order in bankruptcy, insolvency, 2217
replevin, or execution sale, a motor vehicle is sold to satisfy 2218
storage or repair charges, or repossession is had upon default 2219
in performance of the terms of a security agreement as provided 2220
in Chapter 1309. of the Revised Code and the secured party has 2221
notified the debtor as required by division (B) of section 2222
1309.611 of the Revised Code, a clerk of a court of common 2223

pleas, upon the surrender of the prior certificate of title or 2224
the manufacturer's or importer's certificate, or, when that is 2225
not possible, upon presentation of satisfactory proof to the 2226
clerk of ownership and rights of possession to the motor 2227
vehicle, and upon payment of the fee prescribed in section 2228
4505.09 of the Revised Code and presentation of an application 2229
for certificate of title, may issue to the applicant a 2230
certificate of title to the motor vehicle. Only an affidavit by 2231
the person or agent of the person to whom possession of the 2232
motor vehicle has passed, setting forth the facts entitling the 2233
person to the possession and ownership, together with a copy of 2234
the journal entry, court order, or instrument upon which the 2235
claim of possession and ownership is founded, is satisfactory 2236
proof of ownership and right of possession. If the applicant 2237
cannot produce that proof of ownership, the applicant may apply 2238
directly to the registrar of motor vehicles and submit the 2239
evidence the applicant has, and the registrar, if the registrar 2240
finds the evidence sufficient, then may authorize a clerk to 2241
issue a certificate of title. If the registrar finds the 2242
evidence insufficient, the applicant may petition the court of 2243
common pleas for a court order ordering the clerk to issue a 2244
certificate of title. The court shall grant or deny the petition 2245
based on the sufficiency of the evidence presented to the court. 2246
If, from the records in the office of the clerk involved, there 2247
appears to be any lien on the motor vehicle, the certificate of 2248
title shall contain a statement of the lien unless the 2249
application is accompanied by proper evidence of its extinction. 2250

(B) A clerk shall transfer a decedent's interest in one or 2251
~~two more~~ automobiles to the surviving spouse of the decedent, as 2252
provided in section 2106.18 of the Revised Code, upon receipt of 2253
the title or titles. An affidavit executed by the surviving 2254

spouse shall be submitted to the clerk with the title or titles. 2255
The affidavit shall give the date of death of the decedent, 2256
shall state that each automobile for which the decedent's 2257
interest is to be so transferred is not disposed of by 2258
testamentary disposition, and shall provide an approximate value 2259
for each automobile selected to be transferred by the surviving 2260
spouse. The affidavit shall also contain a description for each 2261
automobile for which the decedent's interest is to be so 2262
transferred. The transfer does not affect any liens upon any 2263
automobile for which the decedent's interest is so transferred. 2264

(C) Upon the death of one of the persons who have 2265
established joint ownership with right of survivorship under 2266
section 2131.12 of the Revised Code in a motor vehicle, and upon 2267
presentation to a clerk of the title and the certificate of 2268
death of the decedent, the clerk shall transfer title to the 2269
motor vehicle to the survivor. The transfer does not affect any 2270
liens upon any motor vehicle so transferred. 2271

(D) Upon the death of the owner of a motor vehicle 2272
designated in beneficiary form under section 2131.13 of the 2273
Revised Code, upon application for a certificate of title by the 2274
transfer-on-death beneficiary or beneficiaries designated 2275
pursuant to that section, and upon presentation to the clerk of 2276
the certificate of title and the certificate of death of the 2277
decedent, the clerk shall transfer the motor vehicle and issue a 2278
certificate of title to the transfer-on-death beneficiary or 2279
beneficiaries. The transfer does not affect any liens upon the 2280
motor vehicle so transferred. 2281

Sec. 5801.10. (A) As used in this section, "creditor" 2282
means any of the following: 2283

(1) A person holding a debt or security for a debt entered 2284

into by a trustee on behalf of the trust;	2285
(2) A person holding a debt secured by one or more assets of the trust;	2286 2287
(3) A person having a claim against the trustee or the assets of the trust under section 5805.06 of the Revised Code;	2288 2289
(4) A person who has attached through legal process a beneficiary's interest in the trust.	2290 2291
(B) (1) Subject to division (B) (2) of this section, the parties to an agreement under this section shall be any two or more of the following, or their representatives under the representation provisions of Chapter 5803. of the Revised Code, except that only the settlor and any trustee are required to be parties to an amendment of any revocable trust:	2292 2293 2294 2295 2296 2297
(a) The settlor if living and if no adverse income or transfer tax results would arise from the settlor's participation;	2298 2299 2300
(b) The beneficiaries;	2301
(c) The currently serving trustees;	2302
(d) Creditors, if their interest is to be affected by the agreement.	2303 2304
(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:	2305 2306 2307 2308
(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.	2309 2310 2311

(b) The trust is a charitable trust.	2312
(C) The persons specified in division (B) of this section	2313
may by written instrument enter into an agreement with respect	2314
to any matter concerning the construction of, administration of,	2315
or distributions under the terms of the trust, the investment of	2316
income or principal held by the trustee, or other matters. The	2317
agreement may not effect a termination of the trust before the	2318
date specified for the trust's termination in the terms of the	2319
trust, change the interests of the beneficiaries in the trust	2320
except as necessary to effect a modification described in	2321
division (C) (5), (6), or (7) of this section, or include terms	2322
and conditions that could not be properly approved by the court	2323
under Chapters 5801. to 5811. of the Revised Code or other	2324
applicable law. The invalidity of any provision of the agreement	2325
does not affect the validity of other provisions of the	2326
agreement. Matters that may be resolved by a private settlement	2327
agreement include, but are not limited to, all of the following:	2328
(1) Determining classes of creditors, beneficiaries,	2329
heirs, next of kin, or other persons;	2330
(2) Resolving disputes arising out of the administration	2331
or distribution under the terms of the trust, including disputes	2332
over the construction of the language of the trust instrument or	2333
construction of the language of other writings that affect the	2334
terms of the trust;	2335
(3) Granting to the trustee necessary or desirable powers	2336
not granted in the terms of the trust or otherwise provided by	2337
law, to the extent that those powers either are not inconsistent	2338
with the express provisions or purposes of the terms of the	2339
trust or, if inconsistent with the express provisions or	2340
purposes of the terms of the trust, are necessary for the due	2341

administration of the terms of the trust;	2342
(4) Modifying the terms of the trust, if the modification	2343
is not inconsistent with any material purpose of the trust;	2344
(5) Modifying the terms of the trust in the manner	2345
required to qualify the gift under the terms of the trust for	2346
the charitable estate or gift tax deduction permitted by federal	2347
law, including the addition of mandatory governing instrument	2348
requirements for a charitable remainder trust as required by the	2349
Internal Revenue Code and regulations promulgated under it in	2350
any case in which the parties interested in the trust have	2351
submitted written agreements to the proposed changes or written	2352
disclaimer of interest;	2353
(6) Modifying the terms of the trust in the manner	2354
required to qualify any gift under the terms of the trust for	2355
the estate tax marital deduction available to noncitizen	2356
spouses, including the addition of mandatory governing	2357
instrument requirements for a qualified domestic trust under	2358
section 2056A of the Internal Revenue Code and regulations	2359
promulgated under it in any case in which the parties interested	2360
in the trust have submitted written agreements to the proposed	2361
changes or written disclaimer of interest;	2362
(7) Construing or modifying the terms of a trust that	2363
refer to the federal estate tax, federal generation-skipping	2364
transfer tax, or Ohio estate tax, or that contain a division of	2365
property based on the imposition or amount of one or more of	2366
those taxes, to give effect to the intent of the settlor;	2367
(8) Resolving any other matter that arises under Chapters	2368
5801. to 5811. of the Revised Code.	2369
(D) No agreement shall be entered into under this section	2370

affecting the rights of a creditor without the creditor's 2371
consent or affecting the collection rights of federal, state, or 2372
local taxing authorities. 2373

(E) Any agreement entered into under this section that 2374
complies with the requirements of division (C) of this section 2375
shall be final and binding on the parties to the agreement or 2376
persons represented by the parties to the agreement whether by 2377
reason of Chapter 5803. of the Revised Code or otherwise, and 2378
their heirs, successors, and assigns, but shall have no effect 2379
on any trustee, settlor, beneficiary, or creditor who is not a 2380
party to the agreement or is not represented by a party to the 2381
agreement. 2382

(F) Notwithstanding anything in this section, in division 2383
(D) of section 5803.03 of the Revised Code, or in any other rule 2384
of law to the contrary, a trustee serving under the terms of the 2385
trust shall only represent its own individual or corporate 2386
interests in negotiating or entering into an agreement subject 2387
to this section. No trustee serving under the terms of the trust 2388
shall be considered to represent any settlor, beneficiary, or 2389
the interests of any settlor or beneficiary in negotiating or 2390
entering into an agreement subject to this section. 2391

(G) Any party to a private settlement agreement entered 2392
into under this section may request the court to approve the 2393
agreement, to determine whether the representation as provided 2394
in Chapter 5803. of the Revised Code was adequate, and to 2395
determine whether the agreement contains terms and conditions 2396
the court could have properly approved. 2397

(H) If an agreement entered into under this section 2398
contains a provision requiring binding arbitration of any 2399
disputes arising under the agreement, the provision is 2400

enforceable.	2401
(I) Nothing in this section affects any of the following:	2402
(1) The right of a beneficiary to disclaim under section 5815.36 of the Revised Code;	2403 2404
(2) The termination or modification of a trust under section 5804.10, 5804.11, 5804.12, 5804.13, 5804.14, 5804.15, or 5804.16 of the Revised Code;	2405 2406 2407
(3) The ability of a trustee to divide or consolidate a trust under section 5804.17 of the Revised Code;	2408 2409
(4) The power of the trustee to make distributions pursuant to section 5808.18 of the Revised Code.	2410 2411
(J) Nothing in this section restricts or limits the jurisdiction of any court to dispose of matters not covered by agreements under this section or to supervise the acts of trustees appointed by that court.	2412 2413 2414 2415
(K) This section shall be liberally construed to favor the validity and enforceability of agreements entered into under it.	2416 2417
(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.	2418 2419 2420 2421 2422
(M) Subject to divisions (B) (2) and (C) (7) of this section, this section does not apply to any of the following:	2423 2424
(1) A charitable trust that has one or more charitable organizations as qualified beneficiaries;	2425 2426
(2) A charitable trust the terms of which authorize or	2427

direct the trustee to distribute trust income or principal to 2428
one or more charitable organizations to be selected by the 2429
trustee, or for one or more charitable purposes described in 2430
division (A) of section 5804.05 of the Revised Code, if any of 2431
the following apply: 2432

(a) The distributions may be made on the date that an 2433
agreement under this section would be entered into. 2434

(b) The distributions could be made on the date that an 2435
agreement under this section would be entered into if the 2436
interests of the current beneficiaries of the trust terminated 2437
on that date, but the termination of those interests would not 2438
cause the trust to terminate. 2439

(c) The distributions could be made on the date that an 2440
agreement under this section would be entered into if the trust 2441
terminated on that date. 2442

(3) An agreement pursuant to section 109.232 of the 2443
Revised Code. 2444

(N) This section does not prohibit some or all of the 2445
persons who could enter into an agreement under this section 2446
from entering into agreements that are not described in this 2447
section and are governed by other law, including the common law. 2448
Nothing in this section limits or negates any consents, 2449
releases, or ratifications, whether under section 5810.09 of the 2450
Revised Code or otherwise, relating to any agreement described 2451
in this section or governed by other law. 2452

Sec. 5802.04. An action brought under Chapters 5801. to 2453
5811. of the Revised Code is a civil action subject to the Rules 2454
of Civil Procedure, and unless it involves a testamentary or 2455
other trust that already is subject to court supervision, is 2456

commenced by filing a complaint. 2457

Sec. 5803.02. To the extent there is no conflict of 2458
interest between the holder of a general testamentary power of 2459
appointment and the persons represented with respect to the 2460
particular question or dispute, the holder may represent and 2461
bind persons whose interests, as permissible appointees, takers 2462
in default, or otherwise, are subject to the power. To the 2463
extent there is no conflict of interest between the holder of a 2464
limited testamentary power of appointment or a presently 2465
exercisable limited power of appointment and the persons 2466
represented with respect to the particular question or dispute, 2467
the holder may also represent and bind persons whose interests 2468
as possible appointees are subject to the power. The rights of 2469
the holder of a presently exercisable general power of 2470
appointment are governed by section 5806.03 of the Revised Code. 2471

Sec. 5804.02. (A) A trust is created only if all of the 2472
following apply: 2473

(1) The Subject to division (F) of this section, the 2474
settlor of the trust, other than the settlor of a trust created 2475
by a court order, has capacity to create a trust. 2476

(2) The Subject to division (F) of this section, the 2477
settlor of the trust, other than the settlor of a trust created 2478
by a court order, indicates an intention to create the trust. 2479

(3) The trust has a definite beneficiary or is one of the 2480
following: 2481

(a) A charitable trust; 2482

(b) A trust for the care of an animal, as provided in 2483
section 5804.08 of the Revised Code; 2484

(c) A trust for a noncharitable purpose, as provided in	2485
section 5804.09 of the Revised Code.	2486
(4) The trustee has duties to perform.	2487
(5) The same person is not the sole trustee and sole	2488
beneficiary.	2489
(B) A beneficiary is definite if the beneficiary can be	2490
ascertained now or in the future, subject to any applicable rule	2491
against perpetuities.	2492
(C) A power in a trustee or other person to select a	2493
beneficiary from an indefinite class is valid. If the power is	2494
not exercised within a reasonable time, the power fails, and the	2495
property subject to the power passes to the persons who would	2496
have taken the property had the power not been conferred.	2497
(D) A trust is valid regardless of the existence, size, or	2498
character of the corpus of the trust. This division applies to	2499
any trust instrument that was executed prior to, or is executed	2500
on or after, January 1, 2007.	2501
(E) A trust is not invalid because a person, including,	2502
but not limited to, the creator of the trust, is or may become	2503
the sole trustee and the sole holder of the present beneficial	2504
enjoyment of the corpus of the trust, provided that one or more	2505
other persons hold a vested, contingent, or expectant interest	2506
relative to the enjoyment of the corpus of the trust upon the	2507
cessation of the present beneficial enjoyment. A merger of the	2508
legal and equitable titles to the corpus of a trust described in	2509
this division does not occur in its creator, and,	2510
notwithstanding any contrary provision of Chapter 2107. of the	2511
Revised Code, the trust is not a testamentary trust that is	2512
required to comply with that chapter in order for its corpus to	2513

be legally distributed to other beneficiaries in accordance with 2514
the provisions of the trust upon the cessation of the present 2515
beneficial enjoyment. This division applies to any trust that 2516
satisfies the provisions of this division, whether the trust was 2517
executed prior to, on, or after October 10, 1991. 2518

(F) An agent under a power of attorney may create a trust 2519
for the principal, whether or not the principal has capacity to 2520
create the trust and indicates an intention to create the trust, 2521
but only as provided in sections 1337.21 to 1337.64 of the 2522
Revised Code, including sections 1337.42 and 1337.58 of the 2523
Revised Code and their limitations on creation of trusts and on 2524
gifts of property of the principal and the duty of the agent to 2525
attempt to preserve the principal's estate plan. 2526

Sec. 5808.16. Without limiting the authority conferred by 2527
section 5808.15 of the Revised Code, a trustee may do all of the 2528
following: 2529

(A) Collect trust property and accept or reject additions 2530
to the trust property from a settlor or any other person; 2531

(B) Acquire or sell property, for cash or on credit, at 2532
public or private sale; 2533

(C) Exchange, partition, or otherwise change the character 2534
of trust property; 2535

(D) Deposit trust money in an account in a regulated 2536
financial-service institution; 2537

(E) Borrow money, with or without security, and mortgage 2538
or pledge trust property for a period within or extending beyond 2539
the duration of the trust; 2540

(F) With respect to an interest in a proprietorship, 2541

partnership, limited liability company, business trust, 2542
corporation, or other form of business or enterprise, continue 2543
the business or other enterprise and take any action that may be 2544
taken by shareholders, members, or property owners, including 2545
merging, dissolving, or otherwise changing the form of business 2546
organization or contributing additional capital; 2547

(G) With respect to stocks or other securities, exercise 2548
the rights of an absolute owner, including the right to do any 2549
of the following: 2550

(1) Vote, or give proxies to vote, with or without power 2551
of substitution, or enter into or continue a voting trust 2552
agreement; 2553

(2) Hold a security in the name of a nominee or in other 2554
form without disclosure of the trust so that title may pass by 2555
delivery; 2556

(3) Pay calls, assessments, and other sums chargeable or 2557
accruing against the securities and sell or exercise stock 2558
subscription or conversion rights; 2559

(4) Deposit the securities with a depository or other 2560
regulated financial-service institution. 2561

(H) With respect to an interest in real property, 2562
construct, or make ordinary or extraordinary repairs to, 2563
alterations to, or improvements in, buildings or other 2564
structures, demolish improvements, raze existing or erect new 2565
party walls or buildings, subdivide or develop land, dedicate 2566
land to public use or grant public or private easements, and 2567
make or vacate plats and adjust boundaries; 2568

(I) Enter into a lease for any purpose as lessor or 2569
lessee, including a lease or other arrangement for exploration 2570

and removal of natural resources, with or without the option to 2571
purchase or renew, for a period within or extending beyond the 2572
duration of the trust; 2573

(J) Grant an option involving a sale, lease, or other 2574
disposition of trust property or acquire an option for the 2575
acquisition of property, including an option exercisable beyond 2576
the duration of the trust, and exercise an option so acquired; 2577

(K) Insure the property of the trust against damage or 2578
loss and insure the trustee, the trustee's agents, and 2579
beneficiaries against liability arising from the administration 2580
of the trust; 2581

(L) Abandon or decline to administer property of no value 2582
or of insufficient value to justify its collection or continued 2583
administration; 2584

(M) With respect to possible liability for violation of 2585
environmental law, do any of the following: 2586

(1) Inspect or investigate property the trustee holds or 2587
has been asked to hold, or property owned or operated by an 2588
organization in which the trustee holds or has been asked to 2589
hold an interest, for the purpose of determining the application 2590
of environmental law with respect to the property; 2591

(2) Take action to prevent, abate, or otherwise remedy any 2592
actual or potential violation of any environmental law affecting 2593
property held directly or indirectly by the trustee, whether 2594
taken before or after the assertion of a claim or the initiation 2595
of governmental enforcement; 2596

(3) Decline to accept property into trust or disclaim any 2597
power with respect to property that is or may be burdened with 2598
liability for violation of environmental law; 2599

(4) Compromise claims against the trust that may be asserted for an alleged violation of environmental law;	2600 2601
(5) Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.	2602 2603
(N) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;	2604 2605 2606
(O) Pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;	2607 2608 2609
(P) Exercise elections with respect to federal, state, and local taxes;	2610 2611
(Q) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance policy payable to the trustee, exercise rights under any employee benefit or retirement plan, annuity, or life insurance policy payable to the trustee, including the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;	2612 2613 2614 2615 2616 2617 2618
(R) Make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;	2619 2620 2621 2622
(S) Guarantee loans made by others to the settlor of a revocable trust and, if the settlor so directs, guarantee loans made by others to a third party and mortgage, pledge, or grant a security interest in the property of a revocable trust to secure the payment of loans made by others to the settlor of the revocable trust and, if the settlor so directs, loans made by	2623 2624 2625 2626 2627 2628

others to a third party; 2629

(T) Appoint a trustee to act in another jurisdiction with 2630
respect to trust property located in the other jurisdiction, 2631
confer upon the appointed trustee all of the powers and duties 2632
of the appointing trustee, require that the appointed trustee 2633
furnish security, and remove any trustee so appointed; 2634

(U) Pay an amount distributable to a beneficiary who is 2635
under a legal disability or who the trustee reasonably believes 2636
is incapacitated, by paying it directly to the beneficiary or 2637
applying it for the beneficiary's benefit, or by doing any of 2638
the following: 2639

(1) Paying it to the beneficiary's guardian of the estate, 2640
or, if the beneficiary does not have a guardian of the estate, 2641
the beneficiary's guardian of the person; 2642

(2) Paying it to the beneficiary's custodian under 2643
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code and, for 2644
that purpose, creating a custodianship; 2645

(3) If the trustee does not know of a guardian of the 2646
person or estate, or custodian, paying it to an adult relative 2647
or other person having legal or physical care or custody of the 2648
beneficiary, to be expended on the beneficiary's behalf; 2649

(4) Managing it as a separate fund on the beneficiary's 2650
behalf, subject to the beneficiary's continuing right to 2651
withdraw the distribution. 2652

(V) On distribution of trust property or the division or 2653
termination of a trust, make distributions in divided or 2654
undivided interests, allocate particular assets in proportionate 2655
or disproportionate shares, value the trust property for those 2656
purposes, and adjust for resulting differences in valuation; 2657

(W) Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(X) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(Y) Sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;

(Z) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it;

(AA) Employ agents, attorneys, accountants, investment advisors, and other professionals.

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

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

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

(B) To the extent that a payment is characterized as

interest ~~or~~, a dividend, or a payment made in lieu of interest 2686
or a dividend, a trustee shall allocate ~~it~~ the payment to 2687
income. The trustee shall allocate to principal the balance of 2688
the payment and any other payment received in the same 2689
accounting period that is not characterized as interest, a 2690
dividend, or an equivalent payment. 2691

(C) If no part of a payment is characterized as interest, 2692
a dividend, or an equivalent payment, and all or part of the 2693
payment is required to be made, a trustee shall allocate to 2694
income ten per cent of the part that is required to be made 2695
during the accounting period and the balance to principal. If no 2696
part of a payment is required to be made or the payment received 2697
is the entire amount to which the trustee is entitled, the 2698
trustee shall allocate the entire payment to principal. For 2699
purposes of this division, a payment is not "required to be 2700
made" to the extent that it is made because the trustee 2701
exercises a right of withdrawal. 2702

~~(D) If, to obtain an estate tax marital deduction for a~~ 2703
~~trust, a trustee must allocate more of a payment to income than~~ 2704
~~is provided for by this section, the trustee shall allocate to~~ 2705
~~income the additional amount necessary to obtain the marital~~ 2706
~~deduction. Except as otherwise provided in division (E) of this~~ 2707
~~section, divisions (F) and (G) of this section apply, and~~ 2708
~~divisions (B) and (C) of this section do not apply, in~~ 2709
~~determining the allocation of a payment made from a separate~~ 2710
~~fund to either of the following:~~ 2711

(1) A trust for which an election to qualify for a marital 2712
deduction under section 2056(b)(7) of the Internal Revenue Code 2713
of 1986, 26 U.S.C. 2056(b)(7), as amended, has been made; 2714

(2) A trust that qualifies for the marital deduction under 2715

section 2056(b) (5) of the Internal Revenue Code of 1986, 26 2716
U.S.C. 2056(b) (5), as amended. 2717

(E) Divisions (D), (F), and (G) of this section do not 2718
apply if and to the extent that the series of payments would, 2719
without the application of division (D) of this section, qualify 2720
for the marital deduction under section 2056(b) (7) (C) of the 2721
Internal Revenue Code of 1986, 26 U.S.C. 2056(b) (7) (C), as 2722
amended. 2723

(F) A trustee shall determine the internal income of each 2724
separate fund for the accounting period as if the separate fund 2725
were a trust subject to sections 5812.01 to 5812.52 of the 2726
Revised Code. Upon request of the surviving spouse, the trustee 2727
shall demand that the person administering the separate fund 2728
distribute the internal income to the trust. The trustee shall 2729
allocate a payment from the separate fund to income to the 2730
extent of the internal income of the separate fund and 2731
distribute that amount to the surviving spouse. The trustee 2732
shall allocate the balance of the payment to principal. Upon 2733
request of the surviving spouse, the trustee shall allocate 2734
principal to income to the extent the internal income of the 2735
separate fund exceeds payments made from the separate fund to 2736
the trust during the accounting period. 2737

(G) If a trustee cannot determine the internal income of a 2738
separate fund but can determine the value of the separate fund, 2739
the internal income of the separate fund is deemed to equal four 2740
per cent of the fund's value according to the most recent 2741
statement of value preceding the beginning of the accounting 2742
period. If the trustee can determine neither the internal income 2743
of the separate fund nor the value of the fund, the internal 2744
income of the fund is deemed to equal the product of the 2745

interest rate and the present value of the expected future 2746
payments, as determined under section 7520 of the Internal 2747
Revenue Code of 1986, 26 U.S.C. 7520, as amended, for the month 2748
preceding the accounting period for which the computation is 2749
made. 2750

(H) This section does not apply to ~~payments~~ a payment to 2751
which section 5812.33 of the Revised Code applies. 2752

(I) (1) This section applies to a trust described in 2753
division (D) of this section on and after any of the following 2754
dates: 2755

(a) If the trust has not received a payment from a 2756
separate fund on the effective date of the amendment of this 2757
section, the date of the decedent's death; 2758

(b) If the trust receives the first payment from any and 2759
all separate funds payable to the trust in the calendar year 2760
beginning January 1 of the year in which the amendment of this 2761
section takes effect, the date of the decedent's death; 2762

(c) If the trust is not described in division (I) (1) (a) or 2763
(b) of this section, January 1 of the year in which the 2764
amendment of this section takes effect. 2765

(2) For purposes of division (I) (1) of this section, 2766
"decedent" means the individual by reason of whose death the 2767
trust may receive a payment from the separate fund. 2768

Sec. 5812.46. (A) A tax required to be paid by a trustee 2769
based on receipts allocated to income shall be paid from income. 2770

(B) A tax required to be paid by a trustee based on 2771
receipts allocated to principal shall be paid from principal, 2772
even if the tax is called an income tax by the taxing authority. 2773

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

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

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

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

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

~~(4) From principal, to the extent that the trust's share of the entity's taxable income tax exceeds the total receipts described in divisions (C) (1) and (2) (a) of this section, from the entity.~~

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

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

(B) In applying and construing the "uniform principal and income act ~~(1997).~~" 7 consideration shall be given to the need to

promote uniformity of the law with respect to its subject matter 2802
among states that enact the "uniform principal and income 2803
act(1997)."- 2804

Sec. 5814.01. As used in sections 5814.01 to ~~5814.09~~ 2805
5814.10 of the Revised Code, unless the context otherwise 2806
requires: 2807

(A) "Benefit plan" means any plan of an employer for the 2808
benefit of any employee, any plan for the benefit of any 2809
partner, or any plan for the benefit of a proprietor, and 2810
includes, but is not limited to, any pension, retirement, death 2811
benefit, deferred compensation, employment agency, stock bonus, 2812
option, or profit-sharing contract, plan, system, account, or 2813
trust. 2814

(B) "Broker" means a person that is lawfully engaged in 2815
the business of effecting transactions in securities for the 2816
account of others. A "broker" includes a financial institution 2817
that effects such transactions and a person who is lawfully 2818
engaged in buying and selling securities for the person's own 2819
account, through a broker or otherwise, as a part of a regular 2820
business. 2821

(C) "Court" means the probate court. 2822

(D) "The custodial property" includes: 2823

(1) All securities, money, life or endowment insurance 2824
policies, annuity contracts, benefit plans, real estate, 2825
tangible and intangible personal property, proceeds of a life or 2826
endowment insurance policy, an annuity contract, or a benefit 2827
plan, and other types of property under the supervision of the 2828
same custodian for the same minor as a consequence of a transfer 2829
or transfers made to the minor, a gift or gifts made to the 2830

minor, or a purchase made by the custodian for the minor, in a 2831
manner prescribed in sections 5814.01 to ~~5814.09~~5814.10 of the 2832
Revised Code; 2833

(2) The income from the custodial property; 2834

(3) The proceeds, immediate and remote, from the sale, 2835
exchange, conversion, investment, reinvestment, or other 2836
disposition of the securities, money, life or endowment 2837
insurance policies, annuity contracts, benefit plans, real 2838
estate, tangible and intangible personal property, proceeds of a 2839
life or endowment insurance policy, an annuity contract, or a 2840
benefit plan, other types of property, and income. 2841

(E) "Custodian" or "successor custodian" means a person so 2842
designated in a manner prescribed in sections 5814.01 to ~~5814.09~~ 2843
5814.10 of the Revised Code. 2844

(F) "Financial institution" means any bank, as defined in 2845
section 1101.01, any building and loan association, as defined 2846
in section 1151.01, any credit union as defined in section 2847
1733.01 of the Revised Code, and any federal credit union, as 2848
defined in the "Federal Credit Union Act," 73 Stat. 628 (1959), 2849
12 U.S.C.A. 1752, as amended. 2850

(G) "Guardian of the minor" includes the general guardian, 2851
guardian, tutor, or curator of the property, estate, or person 2852
of a minor. 2853

(H) "Issuer" means a person who places or authorizes the 2854
placing of the person's name on a security, other than as a 2855
transfer agent, to evidence that it represents a share, 2856
participation, or other interest in the person's property or in 2857
an enterprise, or to evidence the person's duty or undertaking 2858
to perform an obligation that is evidenced by the security, or 2859

who becomes responsible for or in place of any such person. 2860

(I) "Legal representative" of a person means the executor, 2861
administrator, general guardian, guardian, committee, 2862
conservator, tutor, or curator of the person's property or 2863
estate. 2864

(J) "Member of the minor's family" means a parent, 2865
stepparent, spouse, grandparent, brother, sister, uncle, or aunt 2866
of the minor, whether of the whole or half blood, or by 2867
adoption. 2868

(K) ~~"Minor"~~ (1) Except as provided in division (K) (2) of 2869
this section, "minor" means a person an individual who has not 2870
attained the age of twenty-one years. 2871

(2) When used with reference to the beneficiary for whose 2872
benefit custodial property is held or is to be held, "minor" 2873
means an individual who has not attained the age at which the 2874
custodian is required under section 5814.09 of the Revised Code 2875
to transfer the custodial property to the beneficiary. 2876

(L) "Security" includes any note, stock, treasury stock, 2877
common trust fund, bond, debenture, evidence of indebtedness, 2878
certificate of interest or participation in an oil, gas, or 2879
mining title or lease or in payments out of production under an 2880
oil, gas, or mining title or lease, collateral trust 2881
certificate, transferable share, voting trust certificate, or, 2882
in general, any interest or instrument commonly known as a 2883
security, or any certificate of interest or participation in, 2884
any temporary or interim certificate, receipt or certificate of 2885
deposit for, or any warrant or right to subscribe to or 2886
purchase, any of the foregoing. A "security" does not include a 2887
security of which the donor or transferor is the issuer. A 2888

security is in "registered form" when it specifies a person who 2889
is entitled to it or to the rights that it evidences and its 2890
transfer may be registered upon books maintained for that 2891
purpose by or on behalf of the issuer. 2892

(M) "Transfer" means a disposition, other than a gift, by 2893
a person who is eighteen years of age or older that creates 2894
custodial property under sections 5814.01 to ~~5814.09~~ 5814.10 of 2895
the Revised Code. 2896

(N) "Transfer agent" means a person who acts as 2897
authenticating trustee, transfer agent, registrar, or other 2898
agent for an issuer in the registration of transfers of its 2899
securities, in the issue of new securities, or in the 2900
cancellation of surrendered securities. 2901

(O) "Transferor" means a person who is eighteen years of 2902
age or older, who makes a transfer. 2903

(P) "Trust company" means a financial institution that is 2904
authorized to exercise trust powers. 2905

(Q) "Administrator" includes an "administrator with the 2906
will annexed." 2907

Sec. 5814.02. (A) A person who is eighteen years of age or 2908
older may, during the person's lifetime, make a gift or transfer 2909
of a security, money, a life or endowment insurance policy, an 2910
annuity contract, a benefit plan, real estate, tangible or 2911
intangible personal property, or any other property to, may 2912
designate as beneficiary of a life or endowment insurance 2913
policy, an annuity contract, or a benefit plan, or make a 2914
transfer by the irrevocable exercise of a power of appointment 2915
in favor of, a person who is a minor on the date of the gift or 2916
transfer: 2917

(1) If the subject of the gift or transfer is a security 2918
in registered form, by registering it in the name of the donor 2919
or transferor, another person who is eighteen years of age or 2920
older, or a trust company, followed, in substance, by the words: 2921
"as custodian for (name of minor) under the 2922
Ohio Transfers to Minors Act;" 2923

(2) If the subject of the gift or transfer is a security 2924
not in registered form, by delivering it to the donor or 2925
transferor, another person who is eighteen years of age or 2926
older, or a trust company, accompanied by a statement of a gift 2927
or transfer in the following form, in substance, signed by the 2928
donor or transferor and the person or trust company designated 2929
as custodian: 2930

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2931

I, (name of donor or transferor), 2932
hereby deliver to (name of custodian) as custodian 2933
for (name of minor) under the Ohio Transfers 2934
to Minors Act, the following security (ies): (insert an 2935
appropriate description of the security or securities delivered, 2936
sufficient to identify it or them). 2937

..... 2938

(signature of donor or transferor) 2939

..... (name of custodian) hereby acknowledges 2940
receipt of the above described security (ies) as custodian for 2941
the above minor under the Ohio Transfers to Minors Act. 2942

Dated: 2943

(signature of custodian)" 2944

(3) If the subject of the gift or transfer is money, by 2945
paying or delivering it to a broker, or a financial institution 2946

for credit to an account in the name of the donor or transferor, 2947
another person who is eighteen years of age or older, or a trust 2948
company, followed, in substance, by the words: "as custodian for 2949
..... (name of minor) under the Ohio Transfers to 2950
Minors Act." 2951

(4) If the subject of the gift or transfer is a life or 2952
endowment insurance policy, an annuity contract, or a benefit 2953
plan, by assigning the policy, contract, or plan to the donor or 2954
transferor, another person who is eighteen years of age or 2955
older, or a trust company, followed, in substance by the words: 2956
"as custodian for (name of minor) under the 2957
Ohio Transfers to Minors Act." 2958

(5) If the subject of the gift or transfer is an interest 2959
in real estate, by executing and delivering in the appropriate 2960
manner a deed, assignment, or similar instrument in the name of 2961
the donor or transferor, another person who is eighteen years of 2962
age or older, or a trust company, followed, in substance, by the 2963
words: "as custodian for (name of minor) under 2964
the Ohio Transfers to Minors Act." 2965

(6) If the subject of the gift or transfer is tangible 2966
personal property, by delivering it to the donor or transferor, 2967
another person who is eighteen years of age or older, or a trust 2968
company, accompanied by a statement of a gift or transfer in the 2969
following form, in substance, signed by the donor or transferor 2970
and the person or trust company designated as custodian: 2971

"GIFT OR TRANSFER UNDER THE OHIO TRANSFERS TO MINORS ACT 2972

I, (name of donor or transferor), hereby 2973
deliver to (name of custodian) as custodian 2974
for (name of minor) under the Ohio Transfers 2975

to Minors Act, the following property: (insert an appropriate description of the property delivered, sufficient to identify it). 2976
2977
2978

..... 2979

(signature of donor or transferor) 2980

..... (name of custodian) hereby 2981

acknowledges receipt of the above described property as 2982

custodian for the above minor under the Ohio Transfers to Minors 2983

Act. 2984

Dated: 2985

(signature of custodian)" 2986

(7) If the subject of the gift or transfer is tangible 2987

personal property, title to which is evidenced by a certificate 2988

of title issued by a department or agency of a state or of the 2989

United States, by issuing title to the donor or transferor, 2990

another person who is eighteen years of age or older, or a trust 2991

company, accompanied by a statement of a gift or transfer in the 2992

following form, in substance: "as custodian 2993

for (name of minor) under the Ohio 2994

Transfers to Minors Act;" or by delivering the title to another 2995

person who is eighteen years of age or older or a trust company, 2996

endorsed to that person followed in substance by the following 2997

words: "as custodian for..... (name of minor) 2998

under the Ohio Transfers to Minors Act." 2999

(8) If the subject of the gift or transfer is the 3000

designation of a minor as beneficiary of a life or endowment 3001

insurance policy, an annuity contract, or a benefit plan, by 3002

designating as beneficiary of the policy, contract, or plan the 3003

donor or transferor, another person who is eighteen years of age 3004

or older, or a trust company, followed, in substance, by the 3005

words: "as custodian for (name of minor) 3006
under the Ohio Transfers to Minors Act." 3007

(9) If the subject of the gift or transfer is an 3008
irrevocable exercise of a power of appointment in favor of a 3009
minor or is an interest in any property that is not described in 3010
divisions (A) (1) to (8) of this section, by causing the 3011
ownership of the property to be transferred by any written 3012
document in the name of the donor or transferor, another person 3013
who is eighteen years of age or older, or a trust company, 3014
followed, in substance, by the words: "as custodian 3015
for (name of minor) under the Ohio Transfers 3016
to Minors Act." 3017

(B) Trustees, inter vivos or testamentary, executors, and 3018
administrators having authority to distribute or pay any trust 3019
or estate property to or for the benefit of a minor, or having 3020
authority to distribute or pay any trust or estate property to 3021
any other person for the benefit of a minor may, if authorized 3022
by a will or trust instrument, distribute or pay trust or estate 3023
property of any type mentioned in division (A) of this section 3024
in the manner and form provided in that division, and may name 3025
the custodian or successor custodian of the property if the will 3026
or trust instrument does not name an eligible custodian, or if 3027
the will or trust does not name an eligible successor custodian 3028
and the naming of a successor custodian is necessary. A person 3029
who is eighteen years of age or older, in the person's will or 3030
trust instrument, may provide that the fiduciary shall make any 3031
payment or distribution as provided in this division and may 3032
name the custodian and a successor custodian of the trust or 3033
estate property. As to any distribution or payment so made, the 3034
testator of a will, under the provisions of which a testamentary 3035
trust or estate is being administered, or the settlor of an 3036

inter vivos trust shall be deemed the donor or transferor. 3037

(C) Any gift, transfer, payment, or distribution that is 3038
made in a manner prescribed in division (A), (B), or (E) of this 3039
section may be made to only one minor and only one person may be 3040
the custodian. All gifts, transfers, payments, and distributions 3041
made by a person in a manner prescribed in sections 5814.01 to 3042
~~5814.09~~ 5814.10 of the Revised Code to the same custodian for 3043
the benefit of the same minor result in a single custodianship. 3044

(D) A donor or transferor who makes a gift or transfer to 3045
a minor in a manner prescribed in division (A) of this section 3046
and a trustee, executor, or administrator acting under division 3047
(B) or (E) of this section shall promptly do all things within 3048
the donor's, transferor's, trustee's, executor's, or 3049
administrator's power to put the subject of the gift or transfer 3050
in the possession and control of the custodian, but neither the 3051
donor's, transferor's, trustee's, executor's, or administrator's 3052
failure to comply with this division, nor the designation by the 3053
donor, transferor, trustee, executor, or administrator of an 3054
ineligible custodian, nor the renunciation by the person or 3055
trust company designated as custodian, affects the consummation 3056
of the gift or transfer. 3057

(E) If there is no will, or if a will, trust, or other 3058
governing instrument does not contain an authorization to make a 3059
transfer as described in this division, a trustee, executor, or 3060
administrator may make a transfer in a manner prescribed in 3061
division (A) of this section to self, another person who is 3062
eighteen years of age or older, or a trust company, as 3063
custodian, if all of the following apply: 3064

(1) Irrespective of the value of the property, the 3065
trustee, executor, or administrator considers the transfer to be 3066

in the best interest of the minor; 3067

(2) Irrespective of the value of the property, the 3068
transfer is not prohibited by or inconsistent with the 3069
applicable will, trust agreement, or other governing instrument; 3070

(3) If the value of the property exceeds ~~ten~~twenty-five 3071
thousand dollars, the transfer is authorized by the appropriate 3072
court. 3073

(F) Except with respect to real property, a donor or 3074
transferor who makes a gift or transfer to a minor in a manner 3075
prescribed in division (A) of this section and a trustee, 3076
executor, or administrator acting under division (B) or (E) of 3077
this section may also designate one or more successor 3078
custodians, in substance, by adding to such designation the 3079
following words or words of similar import for the successor or 3080
successors designated: "In the event of the death or inability 3081
or unwillingness to serve of (name of 3082
custodian), or any successor custodian designated 3083
hereby, (name of first successor custodian), 3084
followed by (name of second successor 3085
custodian), in the order named, shall serve as successor 3086
custodian." 3087

Sec. 5814.03. (A) A gift or transfer made in a manner 3088
prescribed in sections 5814.01 to ~~5814.09~~5814.10 of the Revised 3089
Code, is irrevocable and conveys to the minor indefeasibly 3090
vested legal title to the security, money, life or endowment 3091
insurance policy, annuity contract, benefit plan, real estate, 3092
tangible or intangible personal property, or other property 3093
given or, subject to the right of the owner of the policy, 3094
contract, or benefit plan to change the beneficiary if the 3095
custodian is not the owner, to the proceeds of a life or 3096

endowment insurance policy, an annuity contract, or a benefit 3097
plan given, but no guardian of the minor has any right, power, 3098
duty, or authority with respect to the custodial property except 3099
as provided in sections 5814.01 to ~~5814.09~~ 5814.10 of the 3100
Revised Code. 3101

(B) By making a gift or transfer in a manner prescribed in 3102
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, the 3103
donor or transferor incorporates in the gift or transfer all the 3104
provisions of these sections and grants to the custodian, and to 3105
any issuer, transfer agent, financial institution, broker, or 3106
third person dealing with a person or trust company designated 3107
as custodian, the respective powers, rights, and immunities 3108
provided in these sections. 3109

Sec. 5814.04. (A) The custodian shall collect, hold, 3110
manage, invest, and reinvest the custodial property. 3111

(B) The custodian shall pay over to the minor for 3112
expenditure by the minor, or expend for the use or benefit of 3113
the minor, as much of or all the custodial property as the 3114
custodian considers advisable for the use and benefit of the 3115
minor in the manner, at the time or times, and to the extent 3116
that the custodian in the custodian's discretion considers 3117
suitable and proper, with or without court order, with or 3118
without regard to the duty or ability of the custodian or of any 3119
other person to support the minor or the minor's ability to do 3120
so, and with or without regard to any other income or property 3121
of the minor that may be applicable or available for any 3122
purpose. Any payment or expenditure that is made under this 3123
division is in addition to, is not a substitute for, and does 3124
not affect the obligation of any person to support the minor for 3125
whom the payment or expenditure is made. 3126

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

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

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

(E) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent person of discretion and intelligence dealing with the property of another, except that the custodian may, in the discretion of the custodian and without liability to the minor or the estate of the minor, retain any custodial property received in a manner prescribed in

sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code. If a 3157
custodian has special skills or is named custodian on the basis 3158
of representations of special skills or expertise, the custodian 3159
is under a duty to use those skills or that expertise. 3160

(F) The custodian may sell, exchange, convert, or 3161
otherwise dispose of custodial property in the manner, at the 3162
time or times, for the price or prices, and upon the terms the 3163
custodian considers advisable. The custodian may vote in person 3164
or by general or limited proxy a security that is custodial 3165
property. The custodian may consent, directly or through a 3166
committee or other agent, to the reorganization, consolidation, 3167
merger, dissolution, or liquidation of an issuer of a security 3168
that is custodial property, and to the sale, lease, pledge, or 3169
mortgage of any property by or to such an issuer, and to any 3170
other action by such an issuer. The custodian may purchase any 3171
life or endowment insurance policy or annuity contract on the 3172
life of the minor or any member of the family of the minor and 3173
pay, from funds in the custodian's custody, any premiums on any 3174
life or endowment insurance policy or annuity contract held by 3175
the custodian as custodial property. The custodian may execute 3176
and deliver any and all instruments in writing that the 3177
custodian considers advisable to carry out any of the 3178
custodian's powers as custodian. 3179

(G) The custodian shall register each security that is 3180
custodial property and in registered form in the name of the 3181
custodian, followed, in substance, by the words: "as custodian 3182
for (name of minor) under the Ohio Transfers to 3183
Minors Act," or shall maintain each security that is custodial 3184
property and in registered form in an account with a broker or 3185
in a financial institution in the name of the custodian, 3186
followed, in substance, by the words: "as custodian 3187

for (name of minor) under the Ohio Transfers to 3188
Minors Act." A security held in account with a broker or in a 3189
financial institution in the name of the custodian may be held 3190
in the name of the broker or financial institution. A security 3191
that is custodial property and in registered form and that is 3192
held by a broker or in a financial institution in which the 3193
broker or financial institution does not have a lien for 3194
indebtedness due to it from a custodial account may not be 3195
pledged, lent, hypothecated, or disposed of except upon the 3196
specific instructions of the custodian. The custodian shall hold 3197
all money that is custodial property in an account with a broker 3198
or in a financial institution in the name of the custodian, 3199
followed, in substance, by the words: "as custodian 3200
for (name of minor) under the Ohio Transfers to 3201
Minors Act." The custodian shall hold all life or endowment 3202
insurance policies, annuity contracts, or benefit plans that are 3203
custodial property in the name of the custodian, followed, in 3204
substance, by the words "as custodian for (name 3205
of minor) under the Ohio Transfers to Minors Act." The custodian 3206
shall take title to all real estate that is custodial property 3207
in the name of the custodian, followed, in substance, by the 3208
words: "as custodian for (name of minor) under the 3209
Ohio Transfers to Minors Act." In the event one or more 3210
successor custodians have been designated by the donor, 3211
transferor, trustee, executor, or administrator pursuant to 3212
division (F) of section 5814.02 of the Revised Code or by the 3213
custodian pursuant to division (E) of section 5814.07 of the 3214
Revised Code, each registration, account, policy, contract, 3215
plan, or title in the name of the custodian set forth in this 3216
division shall include such designation of successor custodian 3217
or custodians. The custodian shall keep all other custodial 3218
property separate and distinct from the custodian's own property 3219

in a manner to identify it clearly as custodial property. 3220

(H) The custodian shall keep records of all transactions 3221
with respect to the custodial property and make the records 3222
available for inspection at reasonable intervals by a parent or 3223
legal representative of the minor or by the minor, if the minor 3224
has attained the age of fourteen years. 3225

(I) A custodian has, with respect to the custodial 3226
property, in addition to the rights and powers provided in 3227
sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, all the 3228
rights and powers that a guardian has with respect to property 3229
not held as custodial property. 3230

(J) The custodian may invest in or pay premiums on any 3231
life or endowment insurance policy or annuity contract on either 3232
of the following: 3233

(1) The life of the minor, if the minor or the estate of 3234
the minor is the sole beneficiary under the policy or contract; 3235

(2) The life of any person in whom the minor has an 3236
insurable interest, if the minor, the minor's estate, or the 3237
custodian in the custodian's capacity as custodian is the sole 3238
beneficiary. 3239

(K) All of the rights, powers, and authority of the 3240
custodian over custodial property, including all of the 3241
incidents of ownership in any life or endowment insurance 3242
policy, annuity contract, or benefit plan, are held only in the 3243
capacity of the custodian as custodian. 3244

Sec. 5814.05. (A) A custodian is entitled to reimbursement 3245
from the custodial property for reasonable expenses incurred in 3246
the performance of the custodian's duties. 3247

(B) A custodian may act without compensation for the 3248
custodian's services. 3249

(C) Unless the custodian is a donor or transferor, the 3250
custodian may receive from custodial property reasonable 3251
compensation for the custodian's services determined by one of 3252
the following standards in the order stated: 3253

(1) A direction by the donor or transferor when the gift 3254
or transfer is made; 3255

(2) A statute of this state applicable to custodians; 3256

(3) The statute of this state applicable to guardians; 3257

(4) An order of the court. 3258

(D) Except as otherwise provided in sections 5814.01 to 3259
~~5814.09~~ 5814.10 of the Revised Code, a custodian shall not be 3260
required to give a bond for the performance of the custodian's 3261
duties. 3262

(E) A custodian not compensated for the custodian's 3263
services is not liable for losses to the custodial property 3264
unless they result from the custodian's bad faith, intentional 3265
wrongdoing, or gross negligence or from the custodian's failure 3266
to maintain the standard of prudence in investing the custodial 3267
property provided in sections 5814.01 to ~~5814.09~~ 5814.10 of the 3268
Revised Code. 3269

Sec. 5814.06. An issuer, transfer agent, financial 3270
institution, broker, life insurance company, or other person 3271
acting on the instructions of or otherwise dealing with any 3272
person purporting to act as a donor or transferor or dealing 3273
with any person or trust company purporting to act as a 3274
custodian is not required to do any of the following: 3275

(A) Determine either of the following:	3276
(1) Whether the person or trust company designated by the purported donor or transferor, or the person or trust company purporting to act as a custodian, has been duly designated;	3277 3278 3279
(2) Whether any purchase, sale, or transfer to or by, or any other act of, any person or trust company purporting to act as a custodian is in accordance with or authorized by sections 5814.01 to 5814.09 <u>5814.10</u> of the Revised Code.	3280 3281 3282 3283
(B) Inquire into the validity or propriety under sections 5814.01 to 5814.09 <u>5814.10</u> of the Revised Code of any instrument or instructions executed or given by a person purporting to act as a donor or transferor or by a person or trust company purporting to act as a custodian;	3284 3285 3286 3287 3288
(C) See to the application by any person or trust company purporting to act as a custodian of any money or other property paid or delivered to the person or trust company.	3289 3290 3291
Sec. 5814.07. (A) Any person who is eighteen years of age or older or a trust company is eligible to become a successor custodian. A successor custodian has all the rights, powers, duties, and immunities of a custodian designated in a manner prescribed by sections 5814.01 to 5814.09 <u>5814.10</u> of the Revised Code.	3292 3293 3294 3295 3296 3297
(B) A custodian may resign and designate the custodian's successor by doing all of the following:	3298 3299
(1) Executing an instrument of resignation that designates the successor custodian;	3300 3301
(2) Causing each security that is custodial property and in registered form to be registered in the name of the successor	3302 3303

custodian followed, in substance, by the words: "as custodian 3304
for (name of minor) under the Ohio 3305
Transfers to Minors Act;" 3306

(3) Executing in the appropriate manner a deed, 3307
assignment, or similar instrument for all interest in real 3308
estate that is custodial property in the name of the successor 3309
custodian, followed, in substance, by the words: "as custodian 3310
for (name of minor) under the Ohio 3311
Transfers to Minors Act;" 3312

(4) Delivering to the successor custodian the instrument 3313
of resignation, each security registered in the name of the 3314
successor custodian, each deed, assignment, or similar 3315
instrument for all interest in real estate that is in the name 3316
of the successor custodian, and all other custodial property, 3317
together with any additional instruments that are required for 3318
the transfer of the custodial property. 3319

(C) A custodian may petition the court for permission to 3320
resign and for the designation of a successor custodian. 3321

(D) A custodian may designate by the custodian's will a 3322
successor custodian, which designation is effective at the 3323
custodian's death. Upon the custodian's death, the custodian's 3324
legal representative shall do each of the following: 3325

(1) Cause each security that is custodial property and in 3326
registered form to be registered in the name of the successor 3327
custodian, followed, in substance, by the words: "as custodian 3328
for (name of minor) under the Ohio 3329
Transfers to Minors Act;" 3330

(2) Execute in the appropriate manner a deed, assignment, 3331
or similar instrument for all interest in real estate that is 3332

custodial property in the name of the successor custodian, 3333
followed, in substance, by the words: "as custodian 3334
for (name of minor) under the Ohio 3335
Transfers to Minors Act;" 3336

(3) Deliver to the successor custodian each security 3337
registered in the name of the successor custodian, each deed, 3338
assignment, or similar instrument for all interest in real 3339
estate that is in the name of the successor custodian, and all 3340
other custodial property, together with any additional 3341
instruments that are required for the transfer of the custodial 3342
property. 3343

(E) A custodian may designate one or more successor 3344
custodians by transferring the property of any type specified in 3345
division (A) of section 5814.02 of the Revised Code, other than 3346
real estate, in the manner and form provided in that division, 3347
to self as custodian, followed by the designation of the 3348
successor custodian or custodians in the manner and form 3349
provided in division (F) of section 5814.02 of the Revised Code. 3350
A custodian may designate one or more successor custodians of 3351
real property by designating the successor custodian or 3352
custodians in the manner and form provided in sections 5302.22 3353
to 5302.23 of the Revised Code. A designation of a successor 3354
custodian or custodians by the custodian shall replace any 3355
previous designation of successor custodians by the donor, 3356
transferor, or previous custodian. 3357

(F) If no eligible successor custodian is designated by 3358
the donor ~~or~~, transferor, trustee, executor, or administrator 3359
pursuant to division (F) of section 5814.02 of the Revised Code 3360
or in the donor's or transferor's will or trust, or by the 3361
custodian in the custodian's will, ~~or if the custodian dies~~ 3362

intestate pursuant to division (D) of this section or by 3363
transfer pursuant to division (E) of this section, the legal 3364
representative of a custodian who is deceased or is adjudged to 3365
be an incompetent by a court, ~~the legal representative of the~~ 3366
~~custodian~~ may designate a successor custodian. If the court in 3367
which the estate or guardianship proceedings relative to the 3368
custodian are pending approves the designation, the designation 3369
shall be regarded as having been effective as of the date of the 3370
death of the custodian or as of the date the custodian was 3371
adjudged to be an incompetent. Upon the approval of the court, 3372
the legal representative of the custodian shall cause the 3373
custodial property to be transferred or registered in the name 3374
of the successor custodian as provided in divisions (D) (1) to 3375
(3) of this section. 3376

~~(F)~~ (G) If a person or entity designated as successor 3377
custodian is not eligible, or renounces or dies before the minor 3378
attains the age of twenty-one years or before the minor attains 3379
the age at which the custodian is required under section 5814.09 3380
of the Revised Code to deliver the custodial property to the 3381
minor, or if the custodian dies without designating a successor 3382
custodian and division ~~(E)~~ (F) of this section does not apply 3383
because the custodian does not have a legal representative, the 3384
guardian of the minor shall be the successor custodian. If the 3385
minor does not have a guardian, a donor or transferor, the legal 3386
representative of the donor or transferor, the legal 3387
representative of the custodian, a member of the minor's family 3388
who is eighteen years of age or older, or the minor, if the 3389
minor has attained the age of fourteen years, may petition the 3390
court for the designation of a successor custodian. 3391

~~(G)~~ (H) A donor or transferor, the legal representative of 3392
a donor or transferor, a member of the minor's family who is 3393

eighteen years of age or older, a guardian of the minor, or the
minor, if the minor has attained the age of fourteen years, may
petition the court that, for cause shown in the petition, the
custodian be removed and a successor custodian be designated or,
in the alternative, that the custodian be required to give bond
for the performance of the custodian's duties.

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

Sec. 5814.08. (A) The minor, if the minor has attained the
age of fourteen years, or the legal representative of the minor,
a member of the minor's family who is eighteen years of age or
older, or a donor or transferor or the donor's or transferor's
legal representative may petition the court for an accounting by
the custodian or the custodian's legal representative. A
successor custodian may petition the court for an accounting by
the custodian that the successor custodian succeeded.

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

Sec. 5814.09. (A) Subject to the requirements and
limitations of this section, the time for delivery to the minor
of custodial property transferred under or pursuant to division

(A) of section 5814.02 of the Revised Code may be delayed until 3424
a specified time after the minor attains the age of twenty-one 3425
years, which time shall be specified in the written instrument 3426
that makes or provides for the gift or transfer pursuant to 3427
divisions (A) (1) to (9) of section 5814.02 of the Revised Code. 3428

(B) To specify a delayed time for delivery to the minor of 3429
the custodial property, the words "as custodian 3430
for (name of minor) until age 3431
(age of delivery of property to minor) under the Ohio Transfers 3432
to Minors Act," shall be substituted in substance for the words 3433
"as custodian for (name of minor) under the 3434
Ohio Transfers to Minors Act." 3435

(C) The time for delivery to the minor of custodial 3436
property transferred under a will, trust instrument, or 3437
irrevocable exercise of a testamentary power of appointment may 3438
be delayed under this section only if the governing will, trust, 3439
or exercise of the power of appointment provides in substance 3440
that the custodianship is to continue until the time the minor 3441
attains a specified age, which time shall not be later than the 3442
date the minor attains the age of twenty-five years. 3443

(D) If the custodial property is transferred by inter 3444
vivos gift and the time for delivery of the custodial property 3445
to the minor is delayed beyond the time the minor attains the 3446
age of twenty-one years, the custodian, nevertheless, shall 3447
deliver the custodial property to the minor if requested in 3448
writing by the minor within sixty days of the minor attaining 3449
the age of twenty-one years, unless the donor or transferor, in 3450
the written instrument of gift or transfer pursuant to divisions 3451
(A) (1) to (9) of section 5814.02 of the Revised Code, provides 3452
that the custodial property may not be delivered to the minor 3453

prior to attaining the specified age of delivery, which time 3454
shall not be later than the date the minor attains the age of 3455
twenty-five years. 3456

(E) If the time for delivery to the minor of custodial 3457
property is delayed until a specified time after the minor 3458
attains the age of twenty-one years and the minor dies prior to 3459
attaining that age, the custodian shall, upon the minor's death, 3460
deliver the custodial property to the estate of the minor. 3461

(F) A custodian may not commingle the assets of custodial 3462
property that have different delivery dates. 3463

Sec. ~~5814.09~~ 5814.10. (A) Sections 5814.01 to ~~5814.09~~ 3464
~~5814.10~~ of the Revised Code shall be construed to effectuate 3465
their general purpose to make uniform the law of those states 3466
that enact similar provisions. 3467

(B) Sections 5814.01 to ~~5814.09~~5814.10 of the Revised 3468
Code shall not be construed as providing an exclusive method for 3469
making gifts or transfers to minors. 3470

(C) Nothing in sections 5814.01 to ~~5814.09~~5814.10 of the 3471
Revised Code, shall affect gifts made under former sections 3472
1339.19 to 1339.28 of the Revised Code, nor the powers, duties, 3473
and immunities conferred by gifts in such manner upon custodians 3474
and persons dealing with custodians. Sections 5814.01 to ~~5814.09~~ 3475
5814.10 of the Revised Code henceforth apply, however, to all 3476
gifts made in a manner and form prescribed in former sections 3477
1339.19 to 1339.28 of the Revised Code, except insofar as the 3478
application impairs constitutionally vested rights. Sections 3479
5814.01 to ~~5814.09~~5814.10 of the Revised Code shall be 3480
construed as a continuation of the provisions of former sections 3481
1339.19 to 1339.28 of the Revised Code, according to the 3482

language employed, and not as a new enactment. 3483

(D) Nothing in sections 5814.01 to ~~5814.09~~ 5814.10 of the 3484
Revised Code, as of May 7, 1986, shall affect gifts made under 3485
those sections as they existed prior to May 7, 1986, or the 3486
powers, duties, and immunities conferred by the gifts in any 3487
manner upon custodians and persons dealing with custodians. 3488
Sections 5814.01 to ~~5814.09~~ 5814.10 of the Revised Code, as of 3489
May 7, 1986, hereafter apply to all gifts made in a manner and 3490
form prescribed in those sections as they existed prior to May 3491
7, 1986, except to the extent that the application of those 3492
sections, as of May 7, 1986, would impair constitutionally 3493
vested rights. 3494

Sec. 5815.23. (A) Except as provided in division (B) of 3495
this section, an instrument that creates an inter vivos or 3496
testamentary trust shall not require or permit the accumulation 3497
for more than one year of any income of property that satisfies 3498
both of the following: 3499

(1) The property is granted to a surviving spouse of the 3500
testator or other settlor. 3501

(2) The property qualifies for the federal estate tax 3502
marital deduction allowed by subtitle B, Chapter 11 of the 3503
"Internal Revenue Code of 1986," 26 U.S.C. 2056, as amended, the 3504
estate tax marital deduction allowed by division (A) of section 3505
5731.15 of the Revised Code, or the qualified terminable 3506
interest property deduction allowed by division (B) of section 3507
5731.15 of the Revised Code. 3508

(B) (1) Division (A) of this section does not apply if an 3509
instrument that creates an inter vivos or testamentary trust 3510
expressly states the intention of the testator or other settlor 3511

that obtaining a marital deduction or a qualified terminable 3512
interest property deduction as described in division (A) (2) of 3513
this section is less important than requiring or permitting the 3514
accumulation of income of property in accordance with a 3515
provision in the instrument that requires or permits the 3516
accumulation for more than one year of any income of property. 3517

(2) Division (A) of this section does not apply to any 3518
beneficiary of an inter vivos or testamentary trust other than 3519
the surviving spouse of the testator or other settlor or to any 3520
inter vivos or testamentary trust of which the surviving spouse 3521
of the testator or other settlor is a beneficiary if an interest 3522
in property does not qualify for a marital deduction or a 3523
qualified terminable interest property deduction as described in 3524
division (A) (2) of this section. 3525

~~(C) (1) The trustee of a trust that qualifies for an estate- 3526
tax marital deduction for federal or Ohio estate tax purposes- 3527
and that is the beneficiary of an individual retirement account- 3528
has a fiduciary duty, in regard to the income distribution- 3529
provision of the trust, to withdraw and distribute the income of- 3530
the individual retirement account, at least annually, to the- 3531
surviving spouse of the testator or other settlor. 3532~~

~~(2) A trustee's fiduciary duty as described in division 3533
(C) (1) of this section is satisfied if the terms of the trust 3534
instrument expressly provide the surviving spouse a right to 3535
withdraw all of the assets from the trust or a right to compel 3536
the trustee to withdraw and distribute the income of the 3537
individual retirement account to the surviving spouse. 3538~~

~~(D) Divisions (A) 7 and (B) 7 and (C) (1) of this section are 3539
intended to codify existing fiduciary and trust law principles 3540
relating to the interpretation of a testator's or other 3541~~

settlor's intent with respect to the income provisions of a 3542
trust. Divisions (A) and (B) ~~and (C)~~ of this section apply to 3543
trust instruments executed prior to and existing on October 1, 3544
1996, or executed thereafter. The trustee of a trust described 3545
in division (A) or (B) of this section, in a written trust 3546
amendment, may elect to not apply divisions (A) and (B) of this 3547
section to the trust. Any election of that nature, when made, is 3548
irrevocable. 3549

Section 2. That existing sections 1337.60, 1901.261, 3550
1907.261, 2101.026, 2101.16, 2101.162, 2105.02, 2105.14, 3551
2105.31, 2105.32, 2105.33, 2105.34, 2105.35, 2105.36, 2105.37, 3552
2105.39, 2106.13, 2106.18, 2107.07, 2107.10, 2109.62, 2111.131, 3553
2113.86, 2151.541, 2153.081, 2301.031, 4505.10, 5801.10, 3554
5803.02, 5804.02, 5808.16, 5812.32, 5812.46, 5812.51, 5814.01, 3555
5814.02, 5814.03, 5814.04, 5814.05, 5814.06, 5814.07, 5814.08, 3556
5814.09, and 5815.23 and section 2105.38 of the Revised Code are 3557
hereby repealed. 3558

Section 3. Section 2101.16 of the Revised Code is 3559
presented in this act as a composite of the section as amended 3560
by both Sub. S.B. 23 and Am. Sub. S.B. 43 of the 130th General 3561
Assembly. The General Assembly, applying the principle stated in 3562
division (B) of section 1.52 of the Revised Code that amendments 3563
are to be harmonized if reasonably capable of simultaneous 3564
operation, finds that the composite is the resulting version of 3565
the section in effect prior to the effective date of the section 3566
as presented in this act. 3567