

As Introduced

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S. B. No. 350

Senator Eklund

Cosponsors: Senators Seitz, Tavares, Thomas, Schiavoni, Patton, Yuko

A BILL

To amend sections 2151.421, 2317.02, and 2921.22 of 1
the Revised Code to provide generally a 2
testimonial privilege for communications between 3
a qualified advocate rendering advocacy services 4
and a victim of sexual violence, menacing by 5
stalking, or domestic violence, to exempt the 6
nondisclosure of that privileged communication 7
from the offense of failure to report a crime, 8
to require a qualified advocate to report 9
knowledge or reasonable suspicion of child abuse 10
or neglect of the victim except for privileged 11
communications, and to specify circumstances in 12
which the victim is considered to have waived 13
the privilege. 14

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

Section 1. That sections 2151.421, 2317.02, and 2921.22 of 15
the Revised Code be amended to read as follows: 16

Sec. 2151.421. (A) (1) (a) No person described in division 17
(A) (1) (b) of this section who is acting in an official or 18

professional capacity and knows, or has reasonable cause to 19
suspect based on facts that would cause a reasonable person in a 20
similar position to suspect, that a child under eighteen years 21
of age or a mentally retarded, developmentally disabled, or 22
physically impaired child under twenty-one years of age has 23
suffered or faces a threat of suffering any physical or mental 24
wound, injury, disability, or condition of a nature that 25
reasonably indicates abuse or neglect of the child shall fail to 26
immediately report that knowledge or reasonable cause to suspect 27
to the entity or persons specified in this division. Except as 28
provided in section 5120.173 of the Revised Code, the person 29
making the report shall make it to the public children services 30
agency or a municipal or county peace officer in the county in 31
which the child resides or in which the abuse or neglect is 32
occurring or has occurred. In the circumstances described in 33
section 5120.173 of the Revised Code, the person making the 34
report shall make it to the entity specified in that section. 35

(b) Division (A) (1) (a) of this section applies to any 36
person who is an attorney; physician, including a hospital 37
intern or resident; dentist; podiatrist; practitioner of a 38
limited branch of medicine as specified in section 4731.15 of 39
the Revised Code; registered nurse; licensed practical nurse; 40
visiting nurse; other health care professional; licensed 41
psychologist; licensed school psychologist; independent marriage 42
and family therapist or marriage and family therapist; speech 43
pathologist or audiologist; coroner; administrator or employee 44
of a child day-care center; administrator or employee of a 45
residential camp, child day camp, or private, nonprofit 46
therapeutic wilderness camp; administrator or employee of a 47
certified child care agency or other public or private children 48
services agency; school teacher; school employee; school 49

authority; person engaged in social work or the practice of 50
professional counseling; agent of a county humane society; 51
person, other than a cleric, rendering spiritual treatment 52
through prayer in accordance with the tenets of a well- 53
recognized religion; employee of a county department of job and 54
family services who is a professional and who works with 55
children and families; superintendent or regional administrator 56
employed by the department of youth services; superintendent, 57
board member, or employee of a county board of developmental 58
disabilities; investigative agent contracted with by a county 59
board of developmental disabilities; employee of the department 60
of developmental disabilities; employee of a facility or home 61
that provides respite care in accordance with section 5123.171 62
of the Revised Code; employee of a home health agency; employee 63
of an entity that provides homemaker services; a person 64
performing the duties of an assessor pursuant to Chapter 3107. 65
or 5103. of the Revised Code; third party employed by a public 66
children services agency to assist in providing child or family 67
related services; court appointed special advocate; ~~or~~ guardian 68
ad litem; or qualified advocate. 69

(2) Except as provided in division (A)(3) of this section, 70
an attorney or a physician is not required to make a report 71
pursuant to division (A)(1) of this section concerning any 72
communication the attorney or physician receives from a client 73
or patient in an attorney-client or physician-patient 74
relationship, if, in accordance with division (A) or (B) of 75
section 2317.02 of the Revised Code, the attorney or physician 76
could not testify with respect to that communication in a civil 77
or criminal proceeding. 78

(3) The client or patient in an attorney-client or 79
physician-patient relationship described in division (A)(2) of 80

this section is deemed to have waived any testimonial privilege 81
under division (A) or (B) of section 2317.02 of the Revised Code 82
with respect to any communication the attorney or physician 83
receives from the client or patient in that attorney-client or 84
physician-patient relationship, and the attorney or physician 85
shall make a report pursuant to division (A)(1) of this section 86
with respect to that communication, if all of the following 87
apply: 88

(a) The client or patient, at the time of the 89
communication, is either a child under eighteen years of age or 90
a mentally retarded, developmentally disabled, or physically 91
impaired person under twenty-one years of age. 92

(b) The attorney or physician knows, or has reasonable 93
cause to suspect based on facts that would cause a reasonable 94
person in similar position to suspect, as a result of the 95
communication or any observations made during that 96
communication, that the client or patient has suffered or faces 97
a threat of suffering any physical or mental wound, injury, 98
disability, or condition of a nature that reasonably indicates 99
abuse or neglect of the client or patient. 100

(c) The abuse or neglect does not arise out of the 101
client's or patient's attempt to have an abortion without the 102
notification of her parents, guardian, or custodian in 103
accordance with section 2151.85 of the Revised Code. 104

(4) (a) No cleric and no person, other than a volunteer, 105
designated by any church, religious society, or faith acting as 106
a leader, official, or delegate on behalf of the church, 107
religious society, or faith who is acting in an official or 108
professional capacity, who knows, or has reasonable cause to 109
believe based on facts that would cause a reasonable person in a 110

similar position to believe, that a child under eighteen years 111
of age or a mentally retarded, developmentally disabled, or 112
physically impaired child under twenty-one years of age has 113
suffered or faces a threat of suffering any physical or mental 114
wound, injury, disability, or condition of a nature that 115
reasonably indicates abuse or neglect of the child, and who 116
knows, or has reasonable cause to believe based on facts that 117
would cause a reasonable person in a similar position to 118
believe, that another cleric or another person, other than a 119
volunteer, designated by a church, religious society, or faith 120
acting as a leader, official, or delegate on behalf of the 121
church, religious society, or faith caused, or poses the threat 122
of causing, the wound, injury, disability, or condition that 123
reasonably indicates abuse or neglect shall fail to immediately 124
report that knowledge or reasonable cause to believe to the 125
entity or persons specified in this division. Except as provided 126
in section 5120.173 of the Revised Code, the person making the 127
report shall make it to the public children services agency or a 128
municipal or county peace officer in the county in which the 129
child resides or in which the abuse or neglect is occurring or 130
has occurred. In the circumstances described in section 5120.173 131
of the Revised Code, the person making the report shall make it 132
to the entity specified in that section. 133

(b) Except as provided in division (A) (4) (c) of this 134
section, a cleric is not required to make a report pursuant to 135
division (A) (4) (a) of this section concerning any communication 136
the cleric receives from a penitent in a cleric-penitent 137
relationship, if, in accordance with division (C) of section 138
2317.02 of the Revised Code, the cleric could not testify with 139
respect to that communication in a civil or criminal proceeding. 140

(c) The penitent in a cleric-penitent relationship 141

described in division (A) (4) (b) of this section is deemed to 142
have waived any testimonial privilege under division (C) of 143
section 2317.02 of the Revised Code with respect to any 144
communication the cleric receives from the penitent in that 145
cleric-penitent relationship, and the cleric shall make a report 146
pursuant to division (A) (4) (a) of this section with respect to 147
that communication, if all of the following apply: 148

(i) The penitent, at the time of the communication, is 149
either a child under eighteen years of age or a mentally 150
retarded, developmentally disabled, or physically impaired 151
person under twenty-one years of age. 152

(ii) The cleric knows, or has reasonable cause to believe 153
based on facts that would cause a reasonable person in a similar 154
position to believe, as a result of the communication or any 155
observations made during that communication, the penitent has 156
suffered or faces a threat of suffering any physical or mental 157
wound, injury, disability, or condition of a nature that 158
reasonably indicates abuse or neglect of the penitent. 159

(iii) The abuse or neglect does not arise out of the 160
penitent's attempt to have an abortion performed upon a child 161
under eighteen years of age or upon a mentally retarded, 162
developmentally disabled, or physically impaired person under 163
twenty-one years of age without the notification of her parents, 164
guardian, or custodian in accordance with section 2151.85 of the 165
Revised Code. 166

(d) Divisions (A) (4) (a) and (c) of this section do not 167
apply in a cleric-penitent relationship when the disclosure of 168
any communication the cleric receives from the penitent is in 169
violation of the sacred trust. 170

(e) As used in divisions (A) (1) and (4) of this section, 171
"cleric" and "sacred trust" have the same meanings as in section 172
2317.02 of the Revised Code. 173

(5) (a) Except as provided in division (A) (5) (b) of this 174
section, a qualified advocate is not required to make a report 175
pursuant to division (A) (1) of this section concerning any 176
confidential communication the qualified advocate receives from 177
a victim in a qualified advocate-victim relationship, if, in 178
accordance with division (M) of section 2317.02 of the Revised 179
Code, the qualified advocate could not testify with respect to 180
that communication in a civil, criminal, administrative, or 181
education discipline proceeding. 182

(b) The victim in a qualified advocate-victim relationship 183
described in division (A) (5) (a) of this section is considered to 184
have waived any testimonial privilege under division (M) of 185
section 2317.02 of the Revised Code with respect to any 186
confidential communication the qualified advocate receives from 187
the victim in that qualified advocate-victim relationship, and 188
the qualified advocate shall make a report pursuant to division 189
(A) (1) of this section with respect to that communication, if 190
all of the following apply: 191

(i) The victim, at the time of the communication, is 192
either a child under eighteen years of age or a mentally 193
retarded, developmentally disabled, or physically impaired 194
person under twenty-one years of age. 195

(ii) The qualified advocate knows, or has reasonable cause 196
to believe based on facts that would cause a reasonable person 197
in a similar position to believe, as a result of the 198
communication or any observations made during that 199
communication, the victim has suffered or faces a threat of 200

suffering any physical or mental wound, injury, disability, or 201
condition of a nature that reasonably indicates abuse or neglect 202
of the victim. 203

(iii) The abuse or neglect does not arise out of the 204
victim's attempt to have an abortion without the notification of 205
her parents, guardian, or custodian in accordance with section 206
2151.85 of the Revised Code. 207

(c) As used in divisions (A) (1) and (5) of this section, 208
"confidential communication," "qualified advocate," and "victim" 209
have the same meanings as in section 2317.02 of the Revised 210
Code. 211

(B) Anyone who knows, or has reasonable cause to suspect 212
based on facts that would cause a reasonable person in similar 213
circumstances to suspect, that a child under eighteen years of 214
age or a mentally retarded, developmentally disabled, or 215
physically impaired person under twenty-one years of age has 216
suffered or faces a threat of suffering any physical or mental 217
wound, injury, disability, or other condition of a nature that 218
reasonably indicates abuse or neglect of the child may report or 219
cause reports to be made of that knowledge or reasonable cause 220
to suspect to the entity or persons specified in this division. 221
Except as provided in section 5120.173 of the Revised Code, a 222
person making a report or causing a report to be made under this 223
division shall make it or cause it to be made to the public 224
children services agency or to a municipal or county peace 225
officer. In the circumstances described in section 5120.173 of 226
the Revised Code, a person making a report or causing a report 227
to be made under this division shall make it or cause it to be 228
made to the entity specified in that section. 229

(C) Any report made pursuant to division (A) or (B) of 230

this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D) As used in this division, "children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

(1) When a municipal or county peace officer receives a

report concerning the possible abuse or neglect of a child or 260
the possible threat of abuse or neglect of a child, upon receipt 261
of the report, the municipal or county peace officer who 262
receives the report shall refer the report to the appropriate 263
public children services agency. 264

(2) When a public children services agency receives a 265
report pursuant to this division or division (A) or (B) of this 266
section, upon receipt of the report, the public children 267
services agency shall do both of the following: 268

(a) Comply with section 2151.422 of the Revised Code; 269

(b) If the county served by the agency is also served by a 270
children's advocacy center and the report alleges sexual abuse 271
of a child or another type of abuse of a child that is specified 272
in the memorandum of understanding that creates the center as 273
being within the center's jurisdiction, comply regarding the 274
report with the protocol and procedures for referrals and 275
investigations, with the coordinating activities, and with the 276
authority or responsibility for performing or providing 277
functions, activities, and services stipulated in the 278
interagency agreement entered into under section 2151.428 of the 279
Revised Code relative to that center. 280

(E) No township, municipal, or county peace officer shall 281
remove a child about whom a report is made pursuant to this 282
section from the child's parents, stepparents, or guardian or 283
any other persons having custody of the child without 284
consultation with the public children services agency, unless, 285
in the judgment of the officer, and, if the report was made by 286
physician, the physician, immediate removal is considered 287
essential to protect the child from further abuse or neglect. 288
The agency that must be consulted shall be the agency conducting 289

the investigation of the report as determined pursuant to 290
section 2151.422 of the Revised Code. 291

(F) (1) Except as provided in section 2151.422 of the 292
Revised Code or in an interagency agreement entered into under 293
section 2151.428 of the Revised Code that applies to the 294
particular report, the public children services agency shall 295
investigate, within twenty-four hours, each report of child 296
abuse or child neglect that is known or reasonably suspected or 297
believed to have occurred and of a threat of child abuse or 298
child neglect that is known or reasonably suspected or believed 299
to exist that is referred to it under this section to determine 300
the circumstances surrounding the injuries, abuse, or neglect or 301
the threat of injury, abuse, or neglect, the cause of the 302
injuries, abuse, neglect, or threat, and the person or persons 303
responsible. The investigation shall be made in cooperation with 304
the law enforcement agency and in accordance with the memorandum 305
of understanding prepared under division (J) of this section. A 306
representative of the public children services agency shall, at 307
the time of initial contact with the person subject to the 308
investigation, inform the person of the specific complaints or 309
allegations made against the person. The information shall be 310
given in a manner that is consistent with division (H) (1) of 311
this section and protects the rights of the person making the 312
report under this section. 313

A failure to make the investigation in accordance with the 314
memorandum is not grounds for, and shall not result in, the 315
dismissal of any charges or complaint arising from the report or 316
the suppression of any evidence obtained as a result of the 317
report and does not give, and shall not be construed as giving, 318
any rights or any grounds for appeal or post-conviction relief 319
to any person. The public children services agency shall report 320

each case to the uniform statewide automated child welfare 321
information system that the department of job and family 322
services shall maintain in accordance with section 5101.13 of 323
the Revised Code. The public children services agency shall 324
submit a report of its investigation, in writing, to the law 325
enforcement agency. 326

(2) The public children services agency shall make any 327
recommendations to the county prosecuting attorney or city 328
director of law that it considers necessary to protect any 329
children that are brought to its attention. 330

(G) (1) (a) Except as provided in division (H) (3) of this 331
section, anyone or any hospital, institution, school, health 332
department, or agency participating in the making of reports 333
under division (A) of this section, anyone or any hospital, 334
institution, school, health department, or agency participating 335
in good faith in the making of reports under division (B) of 336
this section, and anyone participating in good faith in a 337
judicial proceeding resulting from the reports, shall be immune 338
from any civil or criminal liability for injury, death, or loss 339
to person or property that otherwise might be incurred or 340
imposed as a result of the making of the reports or the 341
participation in the judicial proceeding. 342

(b) Notwithstanding section 4731.22 of the Revised Code, 343
the physician-patient privilege shall not be a ground for 344
excluding evidence regarding a child's injuries, abuse, or 345
neglect, or the cause of the injuries, abuse, or neglect in any 346
judicial proceeding resulting from a report submitted pursuant 347
to this section. 348

(2) In any civil or criminal action or proceeding in which 349
it is alleged and proved that participation in the making of a 350

report under this section was not in good faith or participation 351
in a judicial proceeding resulting from a report made under this 352
section was not in good faith, the court shall award the 353
prevailing party reasonable attorney's fees and costs and, if a 354
civil action or proceeding is voluntarily dismissed, may award 355
reasonable attorney's fees and costs to the party against whom 356
the civil action or proceeding is brought. 357

(H) (1) Except as provided in divisions (H) (4) and (N) of 358
this section, a report made under this section is confidential. 359
The information provided in a report made pursuant to this 360
section and the name of the person who made the report shall not 361
be released for use, and shall not be used, as evidence in any 362
civil action or proceeding brought against the person who made 363
the report. Nothing in this division shall preclude the use of 364
reports of other incidents of known or suspected abuse or 365
neglect in a civil action or proceeding brought pursuant to 366
division (M) of this section against a person who is alleged to 367
have violated division (A) (1) of this section, provided that any 368
information in a report that would identify the child who is the 369
subject of the report or the maker of the report, if the maker 370
of the report is not the defendant or an agent or employee of 371
the defendant, has been redacted. In a criminal proceeding, the 372
report is admissible in evidence in accordance with the Rules of 373
Evidence and is subject to discovery in accordance with the 374
Rules of Criminal Procedure. 375

(2) No person shall permit or encourage the unauthorized 376
dissemination of the contents of any report made under this 377
section. 378

(3) A person who knowingly makes or causes another person 379
to make a false report under division (B) of this section that 380

alleges that any person has committed an act or omission that 381
resulted in a child being an abused child or a neglected child 382
is guilty of a violation of section 2921.14 of the Revised Code. 383

(4) If a report is made pursuant to division (A) or (B) of 384
this section and the child who is the subject of the report dies 385
for any reason at any time after the report is made, but before 386
the child attains eighteen years of age, the public children 387
services agency or municipal or county peace officer to which 388
the report was made or referred, on the request of the child 389
fatality review board or the director of health pursuant to 390
guidelines established under section 3701.70 of the Revised 391
Code, shall submit a summary sheet of information providing a 392
summary of the report to the review board of the county in which 393
the deceased child resided at the time of death or to the 394
director. On the request of the review board or director, the 395
agency or peace officer may, at its discretion, make the report 396
available to the review board or director. If the county served 397
by the public children services agency is also served by a 398
children's advocacy center and the report of alleged sexual 399
abuse of a child or another type of abuse of a child is 400
specified in the memorandum of understanding that creates the 401
center as being within the center's jurisdiction, the agency or 402
center shall perform the duties and functions specified in this 403
division in accordance with the interagency agreement entered 404
into under section 2151.428 of the Revised Code relative to that 405
advocacy center. 406

(5) A public children services agency shall advise a 407
person alleged to have inflicted abuse or neglect on a child who 408
is the subject of a report made pursuant to this section, 409
including a report alleging sexual abuse of a child or another 410
type of abuse of a child referred to a children's advocacy 411

center pursuant to an interagency agreement entered into under 412
section 2151.428 of the Revised Code, in writing of the 413
disposition of the investigation. The agency shall not provide 414
to the person any information that identifies the person who 415
made the report, statements of witnesses, or police or other 416
investigative reports. 417

(I) Any report that is required by this section, other 418
than a report that is made to the state highway patrol as 419
described in section 5120.173 of the Revised Code, shall result 420
in protective services and emergency supportive services being 421
made available by the public children services agency on behalf 422
of the children about whom the report is made, in an effort to 423
prevent further neglect or abuse, to enhance their welfare, and, 424
whenever possible, to preserve the family unit intact. The 425
agency required to provide the services shall be the agency 426
conducting the investigation of the report pursuant to section 427
2151.422 of the Revised Code. 428

(J) (1) Each public children services agency shall prepare 429
a memorandum of understanding that is signed by all of the 430
following: 431

(a) If there is only one juvenile judge in the county, the 432
juvenile judge of the county or the juvenile judge's 433
representative; 434

(b) If there is more than one juvenile judge in the 435
county, a juvenile judge or the juvenile judges' representative 436
selected by the juvenile judges or, if they are unable to do so 437
for any reason, the juvenile judge who is senior in point of 438
service or the senior juvenile judge's representative; 439

(c) The county peace officer; 440

(d) All chief municipal peace officers within the county;	441
(e) Other law enforcement officers handling child abuse and neglect cases in the county;	442 443
(f) The prosecuting attorney of the county;	444
(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;	445 446 447
(h) The county humane society;	448
(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.	449 450 451 452 453
(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B) (1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported	454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469

child abuse or child neglect and does not give, and shall not be 470
construed as giving, any rights or any grounds for appeal or 471
post-conviction relief to any person. 472

(3) A memorandum of understanding shall include all of the 473
following: 474

(a) The roles and responsibilities for handling emergency 475
and nonemergency cases of abuse and neglect; 476

(b) Standards and procedures to be used in handling and 477
coordinating investigations of reported cases of child abuse and 478
reported cases of child neglect, methods to be used in 479
interviewing the child who is the subject of the report and who 480
allegedly was abused or neglected, and standards and procedures 481
addressing the categories of persons who may interview the child 482
who is the subject of the report and who allegedly was abused or 483
neglected. 484

(4) If a public children services agency participated in 485
the execution of a memorandum of understanding under section 486
2151.426 of the Revised Code establishing a children's advocacy 487
center, the agency shall incorporate the contents of that 488
memorandum in the memorandum prepared pursuant to this section. 489

(5) The clerk of the court of common pleas in the county 490
may sign the memorandum of understanding prepared under division 491
(J) (1) of this section. If the clerk signs the memorandum of 492
understanding, the clerk shall execute all relevant 493
responsibilities as required of officials specified in the 494
memorandum. 495

(K) (1) Except as provided in division (K) (4) of this 496
section, a person who is required to make a report pursuant to 497
division (A) of this section may make a reasonable number of 498

requests of the public children services agency that receives or 499
is referred the report, or of the children's advocacy center 500
that is referred the report if the report is referred to a 501
children's advocacy center pursuant to an interagency agreement 502
entered into under section 2151.428 of the Revised Code, to be 503
provided with the following information: 504

(a) Whether the agency or center has initiated an 505
investigation of the report; 506

(b) Whether the agency or center is continuing to 507
investigate the report; 508

(c) Whether the agency or center is otherwise involved 509
with the child who is the subject of the report; 510

(d) The general status of the health and safety of the 511
child who is the subject of the report; 512

(e) Whether the report has resulted in the filing of a 513
complaint in juvenile court or of criminal charges in another 514
court. 515

(2) A person may request the information specified in 516
division (K)(1) of this section only if, at the time the report 517
is made, the person's name, address, and telephone number are 518
provided to the person who receives the report. 519

When a municipal or county peace officer or employee of a 520
public children services agency receives a report pursuant to 521
division (A) or (B) of this section the recipient of the report 522
shall inform the person of the right to request the information 523
described in division (K)(1) of this section. The recipient of 524
the report shall include in the initial child abuse or child 525
neglect report that the person making the report was so informed 526
and, if provided at the time of the making of the report, shall 527

include the person's name, address, and telephone number in the 528
report. 529

Each request is subject to verification of the identity of 530
the person making the report. If that person's identity is 531
verified, the agency shall provide the person with the 532
information described in division (K) (1) of this section a 533
reasonable number of times, except that the agency shall not 534
disclose any confidential information regarding the child who is 535
the subject of the report other than the information described 536
in those divisions. 537

(3) A request made pursuant to division (K) (1) of this 538
section is not a substitute for any report required to be made 539
pursuant to division (A) of this section. 540

(4) If an agency other than the agency that received or 541
was referred the report is conducting the investigation of the 542
report pursuant to section 2151.422 of the Revised Code, the 543
agency conducting the investigation shall comply with the 544
requirements of division (K) of this section. 545

(L) The director of job and family services shall adopt 546
rules in accordance with Chapter 119. of the Revised Code to 547
implement this section. The department of job and family 548
services may enter into a plan of cooperation with any other 549
governmental entity to aid in ensuring that children are 550
protected from abuse and neglect. The department shall make 551
recommendations to the attorney general that the department 552
determines are necessary to protect children from child abuse 553
and child neglect. 554

(M) Whoever violates division (A) of this section is 555
liable for compensatory and exemplary damages to the child who 556

would have been the subject of the report that was not made. A 557
person who brings a civil action or proceeding pursuant to this 558
division against a person who is alleged to have violated 559
division (A) (1) of this section may use in the action or 560
proceeding reports of other incidents of known or suspected 561
abuse or neglect, provided that any information in a report that 562
would identify the child who is the subject of the report or the 563
maker of the report, if the maker is not the defendant or an 564
agent or employee of the defendant, has been redacted. 565

(N) (1) As used in this division: 566

(a) "Out-of-home care" includes a nonchartered nonpublic 567
school if the alleged child abuse or child neglect, or alleged 568
threat of child abuse or child neglect, described in a report 569
received by a public children services agency allegedly occurred 570
in or involved the nonchartered nonpublic school and the alleged 571
perpetrator named in the report holds a certificate, permit, or 572
license issued by the state board of education under section 573
3301.071 or Chapter 3319. of the Revised Code. 574

(b) "Administrator, director, or other chief 575
administrative officer" means the superintendent of the school 576
district if the out-of-home care entity subject to a report made 577
pursuant to this section is a school operated by the district. 578

(2) No later than the end of the day following the day on 579
which a public children services agency receives a report of 580
alleged child abuse or child neglect, or a report of an alleged 581
threat of child abuse or child neglect, that allegedly occurred 582
in or involved an out-of-home care entity, the agency shall 583
provide written notice of the allegations contained in and the 584
person named as the alleged perpetrator in the report to the 585
administrator, director, or other chief administrative officer 586

of the out-of-home care entity that is the subject of the report 587
unless the administrator, director, or other chief 588
administrative officer is named as an alleged perpetrator in the 589
report. If the administrator, director, or other chief 590
administrative officer of an out-of-home care entity is named as 591
an alleged perpetrator in a report of alleged child abuse or 592
child neglect, or a report of an alleged threat of child abuse 593
or child neglect, that allegedly occurred in or involved the 594
out-of-home care entity, the agency shall provide the written 595
notice to the owner or governing board of the out-of-home care 596
entity that is the subject of the report. The agency shall not 597
provide witness statements or police or other investigative 598
reports. 599

(3) No later than three days after the day on which a 600
public children services agency that conducted the investigation 601
as determined pursuant to section 2151.422 of the Revised Code 602
makes a disposition of an investigation involving a report of 603
alleged child abuse or child neglect, or a report of an alleged 604
threat of child abuse or child neglect, that allegedly occurred 605
in or involved an out-of-home care entity, the agency shall send 606
written notice of the disposition of the investigation to the 607
administrator, director, or other chief administrative officer 608
and the owner or governing board of the out-of-home care entity. 609
The agency shall not provide witness statements or police or 610
other investigative reports. 611

(O) As used in this section, "investigation" means the 612
public children services agency's response to an accepted report 613
of child abuse or neglect through either an alternative response 614
or a traditional response. 615

Sec. 2317.02. The following persons shall not testify in 616

certain respects: 617

(A) (1) An attorney, concerning a communication made to the 618
attorney by a client in that relation or concerning the 619
attorney's advice to a client, except that the attorney may 620
testify by express consent of the client or, if the client is 621
deceased, by the express consent of the surviving spouse or the 622
executor or administrator of the estate of the deceased client. 623
However, if the client voluntarily reveals the substance of 624
attorney-client communications in a nonprivileged context or is 625
deemed by section 2151.421 of the Revised Code to have waived 626
any testimonial privilege under this division, the attorney may 627
be compelled to testify on the same subject. 628

The testimonial privilege established under this division 629
does not apply concerning either of the following: 630

(a) A communication between a client in a capital case, as 631
defined in section 2901.02 of the Revised Code, and the client's 632
attorney if the communication is relevant to a subsequent 633
ineffective assistance of counsel claim by the client alleging 634
that the attorney did not effectively represent the client in 635
the case; 636

(b) A communication between a client who has since died 637
and the deceased client's attorney if the communication is 638
relevant to a dispute between parties who claim through that 639
deceased client, regardless of whether the claims are by testate 640
or intestate succession or by inter vivos transaction, and the 641
dispute addresses the competency of the deceased client when the 642
deceased client executed a document that is the basis of the 643
dispute or whether the deceased client was a victim of fraud, 644
undue influence, or duress when the deceased client executed a 645
document that is the basis of the dispute. 646

(2) An attorney, concerning a communication made to the attorney by a client in that relationship or the attorney's advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney's aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima-facie showing of bad faith, fraud, or criminal misconduct by the client.

(B) (1) A physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, except as otherwise provided in this division, division (B) (2), and division (B) (3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient

or the executor or administrator of the patient's estate gives 676
express consent; 677

(iii) If a medical claim, dental claim, chiropractic 678
claim, or optometric claim, as defined in section 2305.113 of 679
the Revised Code, an action for wrongful death, any other type 680
of civil action, or a claim under Chapter 4123. of the Revised 681
Code is filed by the patient, the personal representative of the 682
estate of the patient if deceased, or the patient's guardian or 683
other legal representative. 684

(b) In any civil action concerning court-ordered treatment 685
or services received by a patient, if the court-ordered 686
treatment or services were ordered as part of a case plan 687
journalized under section 2151.412 of the Revised Code or the 688
court-ordered treatment or services are necessary or relevant to 689
dependency, neglect, or abuse or temporary or permanent custody 690
proceedings under Chapter 2151. of the Revised Code. 691

(c) In any criminal action concerning any test or the 692
results of any test that determines the presence or 693
concentration of alcohol, a drug of abuse, a combination of 694
them, a controlled substance, or a metabolite of a controlled 695
substance in the patient's whole blood, blood serum or plasma, 696
breath, urine, or other bodily substance at any time relevant to 697
the criminal offense in question. 698

(d) In any criminal action against a physician or dentist. 699
In such an action, the testimonial privilege established under 700
this division does not prohibit the admission into evidence, in 701
accordance with the Rules of Evidence, of a patient's medical or 702
dental records or other communications between a patient and the 703
physician or dentist that are related to the action and obtained 704
by subpoena, search warrant, or other lawful means. A court that 705

permits or compels a physician or dentist to testify in such an 706
action or permits the introduction into evidence of patient 707
records or other communications in such an action shall require 708
that appropriate measures be taken to ensure that the 709
confidentiality of any patient named or otherwise identified in 710
the records is maintained. Measures to ensure confidentiality 711
that may be taken by the court include sealing its records or 712
deleting specific information from its records. 713

(e) (i) If the communication was between a patient who has 714
since died and the deceased patient's physician or dentist, the 715
communication is relevant to a dispute between parties who claim 716
through that deceased patient, regardless of whether the claims 717
are by testate or intestate succession or by inter vivos 718
transaction, and the dispute addresses the competency of the 719
deceased patient when the deceased patient executed a document 720
that is the basis of the dispute or whether the deceased patient 721
was a victim of fraud, undue influence, or duress when the 722
deceased patient executed a document that is the basis of the 723
dispute. 724

(ii) If neither the spouse of a patient nor the executor 725
or administrator of that patient's estate gives consent under 726
division (B) (1) (a) (ii) of this section, testimony or the 727
disclosure of the patient's medical records by a physician, 728
dentist, or other health care provider under division (B) (1) (e) 729
(i) of this section is a permitted use or disclosure of 730
protected health information, as defined in 45 C.F.R. 160.103, 731
and an authorization or opportunity to be heard shall not be 732
required. 733

(iii) Division (B) (1) (e) (i) of this section does not 734
require a mental health professional to disclose psychotherapy 735

notes, as defined in 45 C.F.R. 164.501. 736

(iv) An interested person who objects to testimony or 737
disclosure under division (B) (1) (e) (i) of this section may seek 738
a protective order pursuant to Civil Rule 26. 739

(v) A person to whom protected health information is 740
disclosed under division (B) (1) (e) (i) of this section shall not 741
use or disclose the protected health information for any purpose 742
other than the litigation or proceeding for which the 743
information was requested and shall return the protected health 744
information to the covered entity or destroy the protected 745
health information, including all copies made, at the conclusion 746
of the litigation or proceeding. 747

(2) (a) If any law enforcement officer submits a written 748
statement to a health care provider that states that an official 749
criminal investigation has begun regarding a specified person or 750
that a criminal action or proceeding has been commenced against 751
a specified person, that requests the provider to supply to the 752
officer copies of any records the provider possesses that 753
pertain to any test or the results of any test administered to 754
the specified person to determine the presence or concentration 755
of alcohol, a drug of abuse, a combination of them, a controlled 756
substance, or a metabolite of a controlled substance in the 757
person's whole blood, blood serum or plasma, breath, or urine at 758
any time relevant to the criminal offense in question, and that 759
conforms to section 2317.022 of the Revised Code, the provider, 760
except to the extent specifically prohibited by any law of this 761
state or of the United States, shall supply to the officer a 762
copy of any of the requested records the provider possesses. If 763
the health care provider does not possess any of the requested 764
records, the provider shall give the officer a written statement 765

that indicates that the provider does not possess any of the 766
requested records. 767

(b) If a health care provider possesses any records of the 768
type described in division (B) (2) (a) of this section regarding 769
the person in question at any time relevant to the criminal 770
offense in question, in lieu of personally testifying as to the 771
results of the test in question, the custodian of the records 772
may submit a certified copy of the records, and, upon its 773
submission, the certified copy is qualified as authentic 774
evidence and may be admitted as evidence in accordance with the 775
Rules of Evidence. Division (A) of section 2317.422 of the 776
Revised Code does not apply to any certified copy of records 777
submitted in accordance with this division. Nothing in this 778
division shall be construed to limit the right of any party to 779
call as a witness the person who administered the test to which 780
the records pertain, the person under whose supervision the test 781
was administered, the custodian of the records, the person who 782
made the records, or the person under whose supervision the 783
records were made. 784

(3) (a) If the testimonial privilege described in division 785
(B) (1) of this section does not apply as provided in division 786
(B) (1) (a) (iii) of this section, a physician or dentist may be 787
compelled to testify or to submit to discovery under the Rules 788
of Civil Procedure only as to a communication made to the 789
physician or dentist by the patient in question in that 790
relation, or the physician's or dentist's advice to the patient 791
in question, that related causally or historically to physical 792
or mental injuries that are relevant to issues in the medical 793
claim, dental claim, chiropractic claim, or optometric claim, 794
action for wrongful death, other civil action, or claim under 795
Chapter 4123. of the Revised Code. 796

(b) If the testimonial privilege described in division (B) 797
(1) of this section does not apply to a physician or dentist as 798
provided in division (B)(1)(c) of this section, the physician or 799
dentist, in lieu of personally testifying as to the results of 800
the test in question, may submit a certified copy of those 801
results, and, upon its submission, the certified copy is 802
qualified as authentic evidence and may be admitted as evidence 803
in accordance with the Rules of Evidence. Division (A) of 804
section 2317.422 of the Revised Code does not apply to any 805
certified copy of results submitted in accordance with this 806
division. Nothing in this division shall be construed to limit 807
the right of any party to call as a witness the person who 808
administered the test in question, the person under whose 809
supervision the test was administered, the custodian of the 810
results of the test, the person who compiled the results, or the 811
person under whose supervision the results were compiled. 812

(4) The testimonial privilege described in division (B)(1) 813
of this section is not waived when a communication is made by a 814
physician to a pharmacist or when there is communication between 815
a patient and a pharmacist in furtherance of the physician- 816
patient relation. 817

(5)(a) As used in divisions (B)(1) to (4) of this section, 818
"communication" means acquiring, recording, or transmitting any 819
information, in any manner, concerning any facts, opinions, or 820
statements necessary to enable a physician or dentist to 821
diagnose, treat, prescribe, or act for a patient. A 822
"communication" may include, but is not limited to, any medical 823
or dental, office, or hospital communication such as a record, 824
chart, letter, memorandum, laboratory test and results, x-ray, 825
photograph, financial statement, diagnosis, or prognosis. 826

(b) As used in division (B) (2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. 827
828
829
830

(c) As used in division (B) (5) (b) of this section: 831

(i) "Ambulatory care facility" means a facility that 832
provides medical, diagnostic, or surgical treatment to patients 833
who do not require hospitalization, including a dialysis center, 834
ambulatory surgical facility, cardiac catheterization facility, 835
diagnostic imaging center, extracorporeal shock wave lithotripsy 836
center, home health agency, inpatient hospice, birthing center, 837
radiation therapy center, emergency facility, and an urgent care 838
center. "Ambulatory health care facility" does not include the 839
private office of a physician or dentist, whether the office is 840
for an individual or group practice. 841

(ii) "Emergency facility" means a hospital emergency 842
department or any other facility that provides emergency medical 843
services. 844

(iii) "Health care practitioner" has the same meaning as 845
in section 4769.01 of the Revised Code. 846

(iv) "Hospital" has the same meaning as in section 3727.01 847
of the Revised Code. 848

(v) "Long-term care facility" means a nursing home, 849
residential care facility, or home for the aging, as those terms 850
are defined in section 3721.01 of the Revised Code; a 851
residential facility licensed under section 5119.34 of the 852
Revised Code that provides accommodations, supervision, and 853
personal care services for three to sixteen unrelated adults; a 854
nursing facility, as defined in section 5165.01 of the Revised 855

Code; a skilled nursing facility, as defined in section 5165.01 856
of the Revised Code; and an intermediate care facility for 857
individuals with intellectual disabilities, as defined in 858
section 5124.01 of the Revised Code. 859

(vi) "Pharmacy" has the same meaning as in section 4729.01 860
of the Revised Code. 861

(d) As used in divisions (B) (1) and (2) of this section, 862
"drug of abuse" has the same meaning as in section 4506.01 of 863
the Revised Code. 864

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 865
section apply to doctors of medicine, doctors of osteopathic 866
medicine, doctors of podiatry, and dentists. 867

(7) Nothing in divisions (B) (1) to (6) of this section 868
affects, or shall be construed as affecting, the immunity from 869
civil liability conferred by section 307.628 of the Revised Code 870
or the immunity from civil liability conferred by section 871
2305.33 of the Revised Code upon physicians who report an 872
employee's use of a drug of abuse, or a condition of an employee 873
other than one involving the use of a drug of abuse, to the 874
employer of the employee in accordance with division (B) of that 875
section. As used in division (B) (7) of this section, "employee," 876
"employer," and "physician" have the same meanings as in section 877
2305.33 of the Revised Code. 878

(C) (1) A cleric, when the cleric remains accountable to 879
the authority of that cleric's church, denomination, or sect, 880
concerning a confession made, or any information confidentially 881
communicated, to the cleric for a religious counseling purpose 882
in the cleric's professional character. The cleric may testify 883
by express consent of the person making the communication, 884

except when the disclosure of the information is in violation of 885
a sacred trust and except that, if the person voluntarily 886
testifies or is deemed by division (A) (4) (c) of section 2151.421 887
of the Revised Code to have waived any testimonial privilege 888
under this division, the cleric may be compelled to testify on 889
the same subject except when disclosure of the information is in 890
violation of a sacred trust. 891

(2) As used in division (C) of this section: 892

(a) "Cleric" means a member of the clergy, rabbi, priest, 893
Christian Science practitioner, or regularly ordained, 894
accredited, or licensed minister of an established and legally 895
cognizable church, denomination, or sect. 896

(b) "Sacred trust" means a confession or confidential 897
communication made to a cleric in the cleric's ecclesiastical 898
capacity in the course of discipline enjoined by the church to 899
which the cleric belongs, including, but not limited to, the 900
Catholic Church, if both of the following apply: 901

(i) The confession or confidential communication was made 902
directly to the cleric. 903

(ii) The confession or confidential communication was made 904
in the manner and context that places the cleric specifically 905
and strictly under a level of confidentiality that is considered 906
inviolable by canon law or church doctrine. 907

(D) Husband or wife, concerning any communication made by 908
one to the other, or an act done by either in the presence of 909
the other, during coverture, unless the communication was made, 910
or act done, in the known presence or hearing of a third person 911
competent to be a witness; and such rule is the same if the 912
marital relation has ceased to exist; 913

(E) A person who assigns a claim or interest, concerning 914
any matter in respect to which the person would not, if a party, 915
be permitted to testify; 916

(F) A person who, if a party, would be restricted under 917
section 2317.03 of the Revised Code, when the property or thing 918
is sold or transferred by an executor, administrator, guardian, 919
trustee, heir, devisee, or legatee, shall be restricted in the 920
same manner in any action or proceeding concerning the property 921
or thing. 922

(G) (1) A school guidance counselor who holds a valid 923
educator license from the state board of education as provided 924
for in section 3319.22 of the Revised Code, a person licensed 925
under Chapter 4757. of the Revised Code as a licensed 926
professional clinical counselor, licensed professional 927
counselor, social worker, independent social worker, marriage 928
and family therapist or independent marriage and family 929
therapist, or registered under Chapter 4757. of the Revised Code 930
as a social work assistant concerning a confidential 931
communication received from a client in that relation or the 932
person's advice to a client unless any of the following applies: 933

(a) The communication or advice indicates clear and 934
present danger to the client or other persons. For the purposes 935
of this division, cases in which there are indications of 936
present or past child abuse or neglect of the client constitute 937
a clear and present danger. 938

(b) The client gives express consent to the testimony. 939

(c) If the client is deceased, the surviving spouse or the 940
executor or administrator of the estate of the deceased client 941
gives express consent. 942

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G) (1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any

action or proceeding, other than a criminal, delinquency, child 972
abuse, child neglect, or dependent child action or proceeding, 973
that is brought by or against either parent who takes part in 974
mediation in accordance with the order and that pertains to the 975
mediation process, to any information discussed or presented in 976
the mediation process, to the allocation of parental rights and 977
responsibilities for the care of the parents' children, or to 978
the awarding of parenting time rights in relation to their 979
children; 980

(I) A communications assistant, acting within the scope of 981
the communication assistant's authority, when providing 982
telecommunications relay service pursuant to section 4931.06 of 983
the Revised Code or Title II of the "Communications Act of 984
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 985
communication made through a telecommunications relay service. 986
Nothing in this section shall limit the obligation of a 987
communications assistant to divulge information or testify when 988
mandated by federal law or regulation or pursuant to subpoena in 989
a criminal proceeding. 990

Nothing in this section shall limit any immunity or 991
privilege granted under federal law or regulation. 992

(J) (1) A chiropractor in a civil proceeding concerning a 993
communication made to the chiropractor by a patient in that 994
relation or the chiropractor's advice to a patient, except as 995
otherwise provided in this division. The testimonial privilege 996
established under this division does not apply, and a 997
chiropractor may testify or may be compelled to testify, in any 998
civil action, in accordance with the discovery provisions of the 999
Rules of Civil Procedure in connection with a civil action, or 1000
in connection with a claim under Chapter 4123. of the Revised 1001

Code, under any of the following circumstances: 1002

(a) If the patient or the guardian or other legal 1003
representative of the patient gives express consent. 1004

(b) If the patient is deceased, the spouse of the patient 1005
or the executor or administrator of the patient's estate gives 1006
express consent. 1007

(c) If a medical claim, dental claim, chiropractic claim, 1008
or optometric claim, as defined in section 2305.113 of the 1009
Revised Code, an action for wrongful death, any other type of 1010
civil action, or a claim under Chapter 4123. of the Revised Code 1011
is filed by the patient, the personal representative of the 1012
estate of the patient if deceased, or the patient's guardian or 1013
other legal representative. 1014

(2) If the testimonial privilege described in division (J) 1015
(1) of this section does not apply as provided in division (J) 1016
(1)(c) of this section, a chiropractor may be compelled to 1017
testify or to submit to discovery under the Rules of Civil 1018
Procedure only as to a communication made to the chiropractor by 1019
the patient in question in that relation, or the chiropractor's 1020
advice to the patient in question, that related causally or 1021
historically to physical or mental injuries that are relevant to 1022
issues in the medical claim, dental claim, chiropractic claim, 1023
or optometric claim, action for wrongful death, other civil 1024
action, or claim under Chapter 4123. of the Revised Code. 1025

(3) The testimonial privilege established under this 1026
division does not apply, and a chiropractor may testify or be 1027
compelled to testify, in any criminal action or administrative 1028
proceeding. 1029

(4) As used in this division, "communication" means 1030

acquiring, recording, or transmitting any information, in any 1031
manner, concerning any facts, opinions, or statements necessary 1032
to enable a chiropractor to diagnose, treat, or act for a 1033
patient. A communication may include, but is not limited to, any 1034
chiropractic, office, or hospital communication such as a 1035
record, chart, letter, memorandum, laboratory test and results, 1036
x-ray, photograph, financial statement, diagnosis, or prognosis. 1037

(K) (1) Except as provided under division (K) (2) of this 1038
section, a critical incident stress management team member 1039
concerning a communication received from an individual who 1040
receives crisis response services from the team member, or the 1041
team member's advice to the individual, during a debriefing 1042
session. 1043

(2) The testimonial privilege established under division 1044
(K) (1) of this section does not apply if any of the following 1045
are true: 1046

(a) The communication or advice indicates clear and 1047
present danger to the individual who receives crisis response 1048
services or to other persons. For purposes of this division, 1049
cases in which there are indications of present or past child 1050
abuse or neglect of the individual constitute a clear and 1051
present danger. 1052

(b) The individual who received crisis response services 1053
gives express consent to the testimony. 1054

(c) If the individual who received crisis response 1055
services is deceased, the surviving spouse or the executor or 1056
administrator of the estate of the deceased individual gives 1057
express consent. 1058

(d) The individual who received crisis response services 1059

voluntarily testifies, in which case the team member may be 1060
compelled to testify on the same subject. 1061

(e) The court in camera determines that the information 1062
communicated by the individual who received crisis response 1063
services is not germane to the relationship between the 1064
individual and the team member. 1065

(f) The communication or advice pertains or is related to 1066
any criminal act. 1067

(3) As used in division (K) of this section: 1068

(a) "Crisis response services" means consultation, risk 1069
assessment, referral, and on-site crisis intervention services 1070
provided by a critical incident stress management team to 1071
individuals affected by crisis or disaster. 1072

(b) "Critical incident stress management team member" or 1073
"team member" means an individual specially trained to provide 1074
crisis response services as a member of an organized community 1075
or local crisis response team that holds membership in the Ohio 1076
critical incident stress management network. 1077

(c) "Debriefing session" means a session at which crisis 1078
response services are rendered by a critical incident stress 1079
management team member during or after a crisis or disaster. 1080

(L)(1) Subject to division (L)(2) of this section and 1081
except as provided in division (L)(3) of this section, an 1082
employee assistance professional, concerning a communication 1083
made to the employee assistance professional by a client in the 1084
employee assistance professional's official capacity as an 1085
employee assistance professional. 1086

(2) Division (L)(1) of this section applies to an employee 1087

assistance professional who meets either or both of the 1088
following requirements: 1089

- (a) Is certified by the employee assistance certification 1090
commission to engage in the employee assistance profession; 1091
- (b) Has education, training, and experience in all of the 1092
following: 1093
 - (i) Providing workplace-based services designed to address 1094
employer and employee productivity issues; 1095
 - (ii) Providing assistance to employees and employees' 1096
dependents in identifying and finding the means to resolve 1097
personal problems that affect the employees or the employees' 1098
performance; 1099
 - (iii) Identifying and resolving productivity problems 1100
associated with an employee's concerns about any of the 1101
following matters: health, marriage, family, finances, substance 1102
abuse or other addiction, workplace, law, and emotional issues; 1103
 - (iv) Selecting and evaluating available community 1104
resources; 1105
 - (v) Making appropriate referrals; 1106
 - (vi) Local and national employee assistance agreements; 1107
 - (vii) Client confidentiality. 1108

(3) Division (L)(1) of this section does not apply to any 1109
of the following: 1110

- (a) A criminal action or proceeding involving an offense 1111
under sections 2903.01 to 2903.06 of the Revised Code if the 1112
employee assistance professional's disclosure or testimony 1113
relates directly to the facts or immediate circumstances of the 1114

offense; 1115

(b) A communication made by a client to an employee 1116
assistance professional that reveals the contemplation or 1117
commission of a crime or serious, harmful act; 1118

(c) A communication that is made by a client who is an 1119
unemancipated minor or an adult adjudicated to be incompetent 1120
and indicates that the client was the victim of a crime or 1121
abuse; 1122

(d) A civil proceeding to determine an individual's mental 1123
competency or a criminal action in which a plea of not guilty by 1124
reason of insanity is entered; 1125

(e) A civil or criminal malpractice action brought against 1126
the employee assistance professional; 1127

(f) When the employee assistance professional has the 1128
express consent of the client or, if the client is deceased or 1129
disabled, the client's legal representative; 1130

(g) When the testimonial privilege otherwise provided by 1131
division (L) (1) of this section is abrogated under law. 1132

(M) (1) Subject to division (M) (2) of this section and 1133
except as provided in division (M) (3) of this section, a 1134
qualified advocate, in any civil, criminal, administrative, or 1135
education discipline proceeding, concerning either of the 1136
following: 1137

(a) A confidential communication made by a victim to a 1138
qualified advocate or by a qualified advocate to a victim in the 1139
course of safety planning, counseling, support, or advocacy 1140
services provided by the qualified advocate to the victim and 1141
related to the sexual violence, menacing by stalking, or 1142

domestic violence for which the victim sought those services; 1143

(b) A record created or maintained in the course of the 1144
qualified advocate providing safety planning, counseling, 1145
support, or advocacy services regarding the victim and related 1146
to the sexual violence, menacing by stalking, or domestic 1147
violence for which the victim sought those services. 1148

(2) If the victim voluntarily reveals the substance of any 1149
qualified advocate-victim communication in a nonprivileged 1150
context or is considered by division (A) (5) (b) of section 1151
2151.421 of the Revised Code to have waived any testimonial 1152
privilege under division (M) (1) of this section, the qualified 1153
advocate may be compelled to testify on the same subject in any 1154
proceeding described in division (M) (1) of this section. 1155

(3) The testimonial privilege established under division 1156
(M) (1) of this section does not apply concerning any of the 1157
following: 1158

(a) A confidential communication between a qualified 1159
advocate and a victim in a civil, criminal, administrative, or 1160
education discipline action or proceeding brought against the 1161
qualified advocate or the qualified victim services program of 1162
which the qualified advocate is an employee or volunteer by the 1163
victim or by any other person in relation to the safety 1164
planning, counseling, support, or advocacy services provided to 1165
the victim, if the confidential communication is relevant to the 1166
defense of the qualified advocate or qualified victim services 1167
program; 1168

(b) A disclosure of the confidential communication by the 1169
qualified advocate to another person if the disclosure is 1170
reasonably necessary to accomplish the purpose for which the 1171

qualified advocate is consulted by the victim. 1172

(c) A disclosure of aggregate, nonpersonally identifiable data. 1173
1174

(4) As used in division (M) of this section: 1175

(a) "Aggregate, nonpersonally identifiable data" means all data from or through which the person to whom the data pertains cannot be identified. 1176
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(b) "Confidential communication" means any written or oral communication that is intended for the purpose of furthering the interest of the victim in the course of safety planning, counseling, support, or advocacy services and is not intended for further disclosure to another person except any of the following: 1179
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(i) Any person who is present at the time the communication is made and is present in order to further the interest of the victim in the course of seeking safety planning, counseling, support, or advocacy services; 1185
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(ii) Any person who is reasonably necessary for the transmission of the communication; 1189
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(iii) Any other persons in the context of group counseling. 1191
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(c) "Domestic violence" means a violation of section 2919.25 of the Revised Code or a violation of a substantively comparable ordinance of a municipal corporation. 1193
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(d) "Qualified advocate" means any person to whom both of the following apply: 1196
1197

(i) The person has completed at least forty hours of 1198

training in advocacy for victims of sexual violence, menacing by 1199
stalking, or domestic violence. 1200

(ii) The person is an employee or volunteer of a qualified 1201
victim services program. 1202

(e) "Qualified victim services program" means either of 1203
the following: 1204

(i) A nongovernmental, nonprofit, community-based program 1205
that receives moneys administered by the office of the Ohio 1206
attorney general or the United States department of justice; 1207
offers safety planning, counseling, support, or advocacy 1208
services to victims of sexual violence, menacing by stalking, or 1209
domestic violence; and adheres to the standards set forth by the 1210
federally recognized state sexual violence or state domestic 1211
violence coalitions; 1212

(ii) A rape crisis program. 1213

(f) "Rape crisis program" has the same meaning as in 1214
section 109.921 of the Revised Code. 1215

(g) "Sexual violence" means any of the following: 1216

(i) A violation of section 2907.02, 2907.03, 2907.04, 1217
2907.05, or former section 2907.12 of the Revised Code; 1218

(ii) A violation of an existing or former municipal 1219
ordinance or law of this state, any other state, or the United 1220
States that is or was substantially equivalent to any of the 1221
sections specified in division (M) (4) (g) (i) of this section. 1222

(h) "Menacing by stalking" means a violation of section 1223
2903.211 of the Revised Code or a violation of a substantively 1224
comparable ordinance of a municipal corporation. 1225

(i) "Victim" means a person who seeks safety planning, 1226
counseling, support, or advocacy services at a qualified victim 1227
services program if those services are related to sexual 1228
violence, menacing by stalking, or domestic violence against the 1229
person. 1230

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1231
of this section, no person, knowing that a felony has been or is 1232
being committed, shall knowingly fail to report such information 1233
to law enforcement authorities. 1234

(2) No person, knowing that a violation of division (B) of 1235
section 2913.04 of the Revised Code has been, or is being 1236
committed or that the person has received information derived 1237
from such a violation, shall knowingly fail to report the 1238
violation to law enforcement authorities. 1239

(B) Except for conditions that are within the scope of 1240
division (E) of this section, no physician, limited 1241
practitioner, nurse, or other person giving aid to a sick or 1242
injured person shall negligently fail to report to law 1243
enforcement authorities any gunshot or stab wound treated or 1244
observed by the physician, limited practitioner, nurse, or 1245
person, or any serious physical harm to persons that the 1246
physician, limited practitioner, nurse, or person knows or has 1247
reasonable cause to believe resulted from an offense of 1248
violence. 1249

(C) No person who discovers the body or acquires the first 1250
knowledge of the death of a person shall fail to report the 1251
death immediately to a physician whom the person knows to be 1252
treating the deceased for a condition from which death at such 1253
time would not be unexpected, or to a law enforcement officer, 1254
an ambulance service, an emergency squad, or the coroner in a 1255

political subdivision in which the body is discovered, the death 1256
is believed to have occurred, or knowledge concerning the death 1257
is obtained. 1258

(D) No person shall fail to provide upon request of the 1259
person to whom a report required by division (C) of this section 1260
was made, or to any law enforcement officer who has reasonable 1261
cause to assert the authority to investigate the circumstances 1262
surrounding the death, any facts within the person's knowledge 1263
that may have a bearing on the investigation of the death. 1264

(E) (1) As used in this division, "burn injury" means any 1265
of the following: 1266

(a) Second or third degree burns; 1267

(b) Any burns to the upper respiratory tract or laryngeal 1268
edema due to the inhalation of superheated air; 1269

(c) Any burn injury or wound that may result in death; 1270

(d) Any physical harm to persons caused by or as the 1271
result of the use of fireworks, novelties and trick noisemakers, 1272
and wire sparklers, as each is defined by section 3743.01 of the 1273
Revised Code. 1274

(2) No physician, nurse, or limited practitioner who, 1275
outside a hospital, sanitarium, or other medical facility, 1276
attends or treats a person who has sustained a burn injury that 1277
is inflicted by an explosion or other incendiary device or that 1278
shows evidence of having been inflicted in a violent, malicious, 1279
or criminal manner shall fail to report the burn injury 1280
immediately to the local arson, or fire and explosion 1281
investigation, bureau, if there is a bureau of this type in the 1282
jurisdiction in which the person is attended or treated, or 1283
otherwise to local law enforcement authorities. 1284

(3) No manager, superintendent, or other person in charge 1285
of a hospital, sanitarium, or other medical facility in which a 1286
person is attended or treated for any burn injury that is 1287
inflicted by an explosion or other incendiary device or that 1288
shows evidence of having been inflicted in a violent, malicious, 1289
or criminal manner shall fail to report the burn injury 1290
immediately to the local arson, or fire and explosion 1291
investigation, bureau, if there is a bureau of this type in the 1292
jurisdiction in which the person is attended or treated, or 1293
otherwise to local law enforcement authorities. 1294

(4) No person who is required to report any burn injury 1295
under division (E) (2) or (3) of this section shall fail to file, 1296
within three working days after attending or treating the 1297
victim, a written report of the burn injury with the office of 1298
the state fire marshal. The report shall comply with the uniform 1299
standard developed by the state fire marshal pursuant to 1300
division (A) (15) of section 3737.22 of the Revised Code. 1301

(5) Anyone participating in the making of reports under 1302
division (E) of this section or anyone participating in a 1303
judicial proceeding resulting from the reports is immune from 1304
any civil or criminal liability that otherwise might be incurred 1305
or imposed as a result of such actions. Notwithstanding section 1306
4731.22 of the Revised Code, the physician-patient relationship 1307
is not a ground for excluding evidence regarding a person's burn 1308
injury or the cause of the burn injury in any judicial 1309
proceeding resulting from a report submitted under division (E) 1310
of this section. 1311

(F) (1) Any doctor of medicine or osteopathic medicine, 1312
hospital intern or resident, registered or licensed practical 1313
nurse, psychologist, social worker, independent social worker, 1314

social work assistant, licensed professional clinical counselor, 1315
licensed professional counselor, independent marriage and family 1316
therapist, or marriage and family therapist who knows or has 1317
reasonable cause to believe that a patient or client has been 1318
the victim of domestic violence, as defined in section 3113.31 1319
of the Revised Code, shall note that knowledge or belief and the 1320
basis for it in the patient's or client's records. 1321

(2) Notwithstanding section 4731.22 of the Revised Code, 1322
the doctor-patient privilege shall not be a ground for excluding 1323
any information regarding the report containing the knowledge or 1324
belief noted under division (F)(1) of this section, and the 1325
information may be admitted as evidence in accordance with the 1326
Rules of Evidence. 1327

(G) Divisions (A) and (D) of this section do not require 1328
disclosure of information, when any of the following applies: 1329

(1) The information is privileged by reason of the 1330
relationship between attorney and client; doctor and patient; 1331
licensed psychologist or licensed school psychologist and 1332
client; licensed professional clinical counselor, licensed 1333
professional counselor, independent social worker, social 1334
worker, independent marriage and family therapist, or marriage 1335
and family therapist and client; member of the clergy, rabbi, 1336
minister, or priest and any person communicating information 1337
confidentially to the member of the clergy, rabbi, minister, or 1338
priest for a religious counseling purpose of a professional 1339
character; husband and wife; ~~or~~ a communications assistant and 1340
those who are a party to a telecommunications relay service 1341
call; or a qualified advocate and a victim of sexual violence, 1342
menacing by stalking, or domestic violence. 1343

(2) The information would tend to incriminate a member of 1344

the actor's immediate family. 1345

(3) Disclosure of the information would amount to 1346
revealing a news source, privileged under section 2739.04 or 1347
2739.12 of the Revised Code. 1348

(4) Disclosure of the information would amount to 1349
disclosure by a member of the ordained clergy of an organized 1350
religious body of a confidential communication made to that 1351
member of the clergy in that member's capacity as a member of 1352
the clergy by a person seeking the aid or counsel of that member 1353
of the clergy. 1354

(5) Disclosure would amount to revealing information 1355
acquired by the actor in the course of the actor's duties in 1356
connection with a bona fide program of treatment or services for 1357
drug dependent persons or persons in danger of drug dependence, 1358
which program is maintained or conducted by a hospital, clinic, 1359
person, agency, or services provider certified pursuant to 1360
section 5119.36 of the Revised Code. 1361

(6) Disclosure would amount to revealing information 1362
acquired by the actor in the course of the actor's duties in 1363
connection with a bona fide program for providing counseling 1364
services to victims of crimes that are violations of section 1365
2907.02 or 2907.05 of the Revised Code or to victims of 1366
felonious sexual penetration in violation of former section 1367
2907.12 of the Revised Code. As used in this division, 1368
"counseling services" include services provided in an informal 1369
setting by a person who, by education or experience, is 1370
competent to provide those services. 1371

(7) (a) Disclosure would amount to revealing information 1372
acquired by the actor in the course of the actor's duties in a 1373

designated victim advocacy office, women's center, health center, or other program to which all of the following apply: 1374
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(i) The office, center, or program provides safety planning, counseling, support, or advocacy services to victims of domestic violence, menacing by stalking, or sexual violence. 1376
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(ii) The office, center, or program is located on the campus of, or is affiliated with, a two-year or four-year post-secondary educational institution in this state. 1379
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(iii) The office, center, or program employs or otherwise engages one or more qualified advocates. 1382
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(iv) The office, center, or program has a memorandum of understanding with a qualified victim services program. 1384
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(b) As used in divisions (G) (1) and (7) of this section: 1386

(i) "Domestic violence," "menacing by stalking," "qualified victim services program," "sexual violence," and "victim" have the same meanings as in division (M) of section 2317.02 of the Revised Code. 1387
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(ii) "Qualified advocate" means any person who has completed at least forty hours of training in advocacy for victims of sexual violence, menacing by stalking, or domestic violence, and who is an employee or volunteer of a designated victim advocacy office, women's center, health center, or other program described in division (G) (7) (a) of this section. 1391
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(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence. 1397
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(I) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division 1400
1401

(A) (1) of this section is a misdemeanor of the fourth degree. 1402
Violation of division (A) (2) or (B) of this section is a 1403
misdemeanor of the second degree. 1404

(J) Whoever violates division (C) or (D) of this section 1405
is guilty of failure to report knowledge of a death, a 1406
misdemeanor of the fourth degree. 1407

(K) (1) Whoever negligently violates division (E) of this 1408
section is guilty of a minor misdemeanor. 1409

(2) Whoever knowingly violates division (E) of this 1410
section is guilty of a misdemeanor of the second degree. 1411

Section 2. That existing sections 2151.421, 2317.02, and 1412
2921.22 of the Revised Code are hereby repealed. 1413