

As Passed by the House

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 464

Representatives Cupp, Rogers

**Cosponsors: Representatives Lipps, Seitz, Hambley, Grendell, Miranda, Roemer,
Ingram, Miller, J., Carruthers, Galonski, Hicks-Hudson, Miller, A., Patterson,
Reineke, Scherer, Skindell, West**

A BILL

To amend sections 1721.21, 1901.123, 1907.143, 1
2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2
2108.24, 2108.34, 2111.10, 2111.50, 2133.07, 3
2701.10, 2717.01, 5122.15, 5804.11, 5805.06, 4
5816.02, 5816.05, 5816.06, 5816.09, 5816.10, and 5
5816.14; to amend, for the purpose of adopting a 6
new section number as indicated in parentheses, 7
section 2717.01 (2717.02); to enact new section 8
2717.01 and sections 2717.03, 2717.04, 2717.05, 9
2717.06, 2717.07, 2717.08, 2717.09, 2717.10, 10
2717.11, 2717.13, 2717.14, 2717.16, 2717.18, and 11
2717.19; and to repeal section 2133.16 of the 12
Revised Code to expand a guardian's authority to 13
create estate plans for their wards, to clarify 14
a surviving spouse's allowance for support upon 15
the spouse's selection of an automobile, to make 16
changes in the Ohio Trust Code and the Ohio 17
Legacy Trust Act, to make changes in the law 18
pertaining to the referral of actions to a 19
retired judge, to make changes to the law 20
regarding cemetery endowment care trusts, to 21
permit a nonprofit corporation to serve as 22

guardian of the person of an incompetent, to 23
eliminate a donor's ability to make an 24
anatomical gift through a will or a declaration 25
or living will, and to make changes to the laws 26
dealing with reimbursement of municipal and 27
county court judges, procedures in involuntary 28
mental health placements, and change of name 29
procedures. 30

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

Section 1. That sections 1721.21, 1901.123, 1907.143, 31
2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 32
2111.10, 2111.50, 2133.07, 2701.10, 5122.15, 5804.11, 5805.06, 33
5816.02, 5816.05, 5816.06, 5816.09, 5816.10, and 5816.14 be 34
amended; section 2717.01 (2717.02) be amended for the purpose of 35
adopting a new section number as indicated in parentheses; and 36
new section 2717.01 and sections 2717.03, 2717.04, 2717.05, 37
2717.06, 2717.07, 2717.08, 2717.09, 2717.10, 2717.11, 2717.13, 38
2717.14, 2717.16, 2717.18, and 2717.19 of the Revised Code be 39
enacted to read as follows: 40

Sec. 1721.21. (A) As used in this section: 41

(1) "Person" means any corporation, company, partnership, 42
individual, or other entity owning or operating a cemetery for 43
the disposition of human remains. 44

(2) "Cemetery" means any one or a combination of more than 45
one of the following: 46

(a) A burial ground for earth interments; 47

(b) A mausoleum for crypt entombments;	48
(c) A columbarium for the deposit of cremated remains;	49
(d) A scattering ground for the spreading of cremated remains.	50 51
(3) "Interment" means the disposition of human remains by earth burial, entombment, or inurnment.	52 53
(4) "Burial right" means the right of earth interment.	54
(5) "Entombment right" means the right of entombment in a mausoleum.	55 56
(6) "Columbarium right" means the right of inurnment in a columbarium for cremated remains.	57 58
(7) "Human remains" means any part of the body of a deceased human being, in any stage of decomposition or state of preservation, or the remaining bone fragments from the body of a deceased human being that has been reduced by cremation or alternative disposition.	59 60 61 62 63
(B) No person shall operate or continue to operate any cemetery in this state unless an endowment care trust is established and maintained as required by this section.	64 65 66
(C) Any person desiring to operate any cemetery that is organized or developed after July 1, 1970, before offering to sell or selling any burial lot, burial right, entombment right, or columbarium right in that cemetery, shall first establish an endowment care trust, segregated from other assets, and place in that fund a minimum of fifty thousand dollars in cash or in bonds of the United States, this state, or any county or municipal corporation of this state.	67 68 69 70 71 72 73 74

Whenever any person described in this division has placed 75
another fifty thousand dollars in the endowment care trust out 76
of gross sales proceeds, in addition to the deposit required by 77
this division, that person, after submitting proof of this fact 78
to the trustees of the endowment care trust, may be paid a 79
distribution in the sum of fifty thousand dollars from the 80
endowment care trust. 81

(D) Any person desiring to operate or to continue to 82
operate any cemetery after July 1, 1970, shall place into the 83
endowment care trust as required by this section not less than 84
ten per cent of the gross sales proceeds received from the sale 85
of any burial lot, burial right, entombment right, or 86
columbarium right. This percentage shall be placed in the 87
endowment care trust no later than thirty days following the 88
month in which the entire gross sales are received. 89

(E) The trustees of the endowment care trust shall consist 90
of at least three individuals who have been residents of the 91
county in which the cemetery is located for at least one year, 92
or a trust company licensed under Chapter 1111. of the Revised 93
Code or a national bank or federal savings association that has 94
securities pledged in accordance with section 1111.04 of the 95
Revised Code. If the trustees are not a financial institution or 96
trust company, the trustees shall be bonded by a fidelity bond, 97
or insured under an insurance policy less any deductible, in an 98
aggregate amount of not less than one hundred per cent of the 99
funds held by the trustees. The trustees or their agent shall, 100
on a continuous basis, keep exact records as to the amount of 101
funds under any joint account or trust instrument being held for 102
the individual beneficiaries showing the amount paid, the amount 103
deposited and invested, and accruals and income. 104

The funds of the endowment care trust shall be held and 105
invested in the manner in which trust funds are permitted to be 106
held and invested pursuant to sections 2109.37 and 2109.371 of 107
the Revised Code or, if provided for in the instrument creating 108
the trust, pursuant to the Ohio Uniform Prudent Investor Act. 109

(F) Any person offering to sell or selling any burial lot, 110
burial right, entombment right, or columbarium right shall give 111
to the purchaser of the lot or right, at the time of sale, a 112
written agreement that identifies and unconditionally guarantees 113
to the purchaser the specific location of the lot or the 114
specific location to which the right applies. 115

(G) No person shall open or close any grave, crypt, or 116
niche for the interment of human remains in a cemetery without 117
the permission of the cemetery association or other entity 118
having control and management of the cemetery. 119

(H) Except as provided in division (G) of this section, 120
this section does not apply to a family cemetery as defined in 121
section 4767.02 of the Revised Code, to any cemetery that is 122
owned and operated entirely and exclusively by churches, 123
religious societies, established fraternal organizations, 124
municipal corporations, or other political subdivisions of the 125
state, or to a national cemetery. 126

(I) ~~The dividend and interest income distribution~~ from the 127
endowment care trust shall be used only to pay for the both of 128
the following: 129

(1) The cost and expenses incurred to establish, manage, 130
invest, and administer the records and the trust and for the; 131

(2) The maintenance, supervision, improvement, and 132
preservation of the grounds, lots, buildings, equipment, 133

statuary, and other real and personal property of the cemetery. 134

(J) (1) Annual reports of all the assets and investments of 135
the endowment care trust shall be prepared and maintained, and 136
shall be available for inspection at reasonable times by any 137
owner of interment rights in the cemetery. 138

(2) Every cemetery required to establish and maintain an 139
endowment care trust shall ensure each of the following: 140

(a) That the cemetery has deposited, at the time specified 141
in division (D) of this section, the amounts required by that 142
division in the cemetery's endowment care trust; 143

(b) ~~That only dividend and interest income have been paid-~~ 144
~~from the endowment care trust, and~~ the cemetery used the amounts 145
withdrawn only for the purposes specified in division (I) of 146
this section; 147

(c) ~~That~~ Subject to division (K) (5) of this section, that 148
all principal and capital gains, less any payment of taxes 149
associated with such gains, have remained in the endowment care 150
trust; 151

(d) That the endowment care trust has not been used to 152
collateralize or guarantee loans and has not otherwise been 153
subjected to any consensual lien; 154

(e) That the endowment care trust is invested in 155
compliance with the investing standards set forth in sections 156
2109.37 and 2109.371 of the Revised Code, or, if provided for in 157
the instrument creating the trust, the Ohio Uniform Prudent 158
Investor Act. 159

(3) Every cemetery required to establish and maintain an 160
endowment care trust shall ~~file~~ do both of the following: 161

(a) File an affidavit annually with the division of real estate of the department of commerce, in a form prescribed by the division, certifying under oath the cemetery satisfied division (J) (2) of this section; 162
163
164
165

(b) Notify the division of real estate of the department of commerce, in a form prescribed by the division, of the percentage of the unitrust distribution from the endowment care trust, as described in divisions (K) (2) (a) (ii) and (b) of this section. 166
167
168
169
170

(K) (1) Every cemetery shall choose the distribution of either of the following from the endowment care trust: 171
172

(a) All net ordinary income, which includes collected dividends, interest, and other income earned by the trust, reduced by any expenses, including, but not limited to, taxes on income, fees, commissions, and costs; 173
174
175
176

(b) A unitrust disbursement not exceeding five per cent of the fair market value of the endowment care fund. "Fair market value," for the purpose of division (K) (1) (b) of this section, means the average of the net fair market value of the assets of the endowment care trust as of the last trading day for each of the three preceding fiscal year ends. 177
178
179
180
181
182

(2) (a) A cemetery that selects the unitrust disbursement distribution method, as provided in division (K) (1) (b) of this section, shall do both of the following: 183
184
185

(i) Deliver to the trustees of the endowment care trust written instructions, including the disbursement percentage selected, not later than sixty days prior to the beginning of a calendar year; 186
187
188
189

(ii) Deliver to the division of real estate of the 190

department of commerce notification that the cemetery selected 191
the unitrust disbursement method and the percentage selected, in 192
compliance with division (J)(3)(b) of this section. 193

(b) The distribution method and, if a unitrust 194
disbursement, the disbursement percentage selected shall remain 195
in effect unless the cemetery notifies the trustees and the 196
division of real estate of the department of commerce of its 197
desire to effect a change. The trustees shall ensure that an 198
investment policy is in place whose goals and objectives are 199
supportive of the growth of the endowment care trust. 200

(3) Distributions from the endowment care trust shall be 201
made on a monthly, quarterly, semiannual, or annual basis, as 202
agreed upon by the cemetery and the trustees. If the trustees do 203
not receive written instructions from the cemetery informing the 204
trustees of the method of calculation and distribution chosen, 205
the trustees shall calculate and distribute the net income, as 206
earned, on a monthly basis. 207

(4) In order to withdraw a unitrust disbursement, the fair 208
market value of the endowment care trust after the disbursement 209
shall be greater than eighty per cent of the aggregate fair 210
market value of the endowment care trust as of the end of the 211
immediately preceding calendar year. Should this not be the 212
case, disbursement shall be limited for that year to net 213
ordinary income. 214

(5) The trustees shall pay reasonable operating expenses 215
and taxes of the endowment care trust itself. If the operating 216
expenses and taxes paid are greater than two and one-half per 217
cent of the fair market value for the preceding calendar year 218
end and the cemetery has selected a unitrust disbursement, the 219
trustees shall reduce the unitrust disbursement by the amount 220

exceeding two and one-half per cent. 221

Sec. 1901.123. (A) (1) Subject to reimbursement under 222
division (B) of this section, the treasurer of the county in 223
which a county-operated municipal court or other municipal court 224
is located shall pay the per diem compensation to which an 225
acting judge appointed pursuant to division (A) (2) (a), (B) (1), 226
or (C) (1) of section 1901.121 of the Revised Code is entitled 227
pursuant to division (A) (1) of section 1901.122 of the Revised 228
Code. 229

(2) The treasurer of the county in which a county-operated 230
municipal court or other municipal court is located shall pay 231
the per diem compensation to which an assigned judge assigned 232
pursuant to division (A) (1), (A) (2) (b), (B) (2), (C) (2), or (D) 233
of section 1901.121 of the Revised Code is entitled pursuant to 234
division (B) (1) or (4) of section 1901.122 of the Revised Code. 235

(3) Subject to reimbursement under division (B) of this 236
section, the treasurer of the county in which a county-operated 237
municipal court or other municipal court is located shall pay 238
the per diem compensation to which an assigned judge assigned 239
pursuant to division (A) (1), (A) (2) (b), (B) (2), (C) (2), or (D) 240
of section 1901.121 of the Revised Code is entitled pursuant to 241
division (B) (2) of section 1901.122 of the Revised Code. 242

(4) Subject to reimbursement under division (C) of this 243
section, the supreme court shall pay the per diem compensation 244
to which an assigned judge assigned pursuant to division (A) (1), 245
(A) (2) (b), (B) (2), (C) (2), or (D) of section 1901.121 of the 246
Revised Code is entitled pursuant to division (B) (3) of section 247
1901.122 of the Revised Code. 248

(B) The treasurer of a county that, pursuant to division 249

(A) (1) or (3) of this section, is required to pay ~~any~~ the per diem compensation to which an acting judge or assigned judge is entitled ~~under division (A) (5) or (6) of section 141.04 of the Revised Code,~~ shall submit to the administrative director of the supreme court quarterly requests for reimbursements of the state portion of the per diem amounts so paid. The requests shall include verifications of the payment of those amounts and an affidavit from the acting judge or assigned judge stating the days and hours worked. The administrative director shall cause reimbursements of ~~those~~ the state portion of the per diem amounts paid to be issued to the county if the administrative director verifies that those amounts were, in fact, so paid.

(C) ~~The~~ If the supreme court, pursuant to division (A) ~~(2)~~ (4) of this section, is required to pay ~~any~~ the per diem compensation to which an assigned judge is entitled ~~under division (A) (5) or (6) of section 141.04 of the Revised Code.~~ Annually, annually, on the first day of August, the administrative director of the supreme court shall issue a billing to the county treasurer of any county to which such a judge was assigned to a municipal court for reimbursement of the county or local portion of the per diem compensation previously paid by the ~~state~~ supreme court for the twelve-month period preceding the last day of June. The county or local portion of the per diem compensation shall be that part of each per diem paid by the state which is proportional to the county or local shares of the total compensation of a resident judge of such court. The county treasurer shall forward the payment within thirty days. After forwarding the payment, the county treasurer shall seek reimbursement from the applicable local municipalities as appropriate.

Sec. 1907.143. (A) (1) Subject to reimbursement under 280

division (B) of this section, the treasurer of the county in 281
which a county court is located shall pay the per diem 282
compensation to which an acting judge appointed pursuant to 283
division (A) (2) ~~(b)~~ (a), (B) (1), or (C) (1) of section 1907.141 of 284
the Revised Code is entitled pursuant to division (A) of section 285
1907.142 of the Revised Code. 286

(2) The treasurer of the county in which a county court is 287
located shall pay the per diem compensation to which an assigned 288
judge assigned pursuant to division (A) (1), (A) (2) (b), (B) (2), 289
or (C) (2) of section 1907.141 of the Revised Code is entitled 290
pursuant to division (B) (1) or (4) of section 1907.142 of the 291
Revised Code. 292

(3) Subject to reimbursement under division (B) of this 293
section, the treasurer of the county in which a county court is 294
located shall pay the per diem compensation to which an assigned 295
judge assigned pursuant to division (A) (1), (A) (2) (b), (B) (2), 296
or (C) (2) of section 1907.141 of the Revised Code is entitled 297
pursuant to division (B) (2) of section 1907.142 of the Revised 298
Code. 299

(4) Subject to reimbursement under division (C) of this 300
section, the supreme court shall pay the per diem compensation 301
to which an assigned judge assigned pursuant to division (A) (1), 302
(A) (2) (b), (B) (2), or (C) (2) of section 1907.141 of the Revised 303
Code is entitled pursuant to division (B) (3) of section 1907.142 304
of the Revised Code. 305

(B) The treasurer of a county that, pursuant to division 306
(A) (1) or (3) of this section, is required to pay ~~any~~ the per 307
diem compensation to which an acting judge or assigned judge is 308
entitled under division (A) (5) or (6) of section 141.04 of the 309
Revised Code, shall submit to the administrative director of the 310

supreme court quarterly requests for reimbursements of the state 311
portion of the per diem amounts so paid. The requests shall 312
include verifications of the payment of those amounts and an 313
affidavit from the acting judge or assigned judge stating the 314
days and hours worked. The administrative director shall cause 315
reimbursements of ~~those~~ the state portion of the per diem 316
amounts paid to be issued to the county if the administrative 317
director verifies that those amounts were, in fact, so paid. 318

(C) ~~The~~ If the supreme court, pursuant to division (A) ~~(2)~~ 319
(4) of this section, is required to pay ~~any~~ the per diem 320
compensation to which an assigned judge is entitled ~~under~~ 321
~~division (A) (5) or (6) of section 141.04 of the Revised Code.~~ 322
Annually, annually, on the first day of August, the 323
administrative director of the supreme court shall issue a 324
billing to the county treasurer of any county to which such a 325
judge was assigned to a county court for reimbursement of the 326
county portion of the per diem compensation previously paid by 327
the ~~state supreme court~~ for the twelve-month period preceding 328
the last day of June. The county portion of the per diem 329
compensation shall be that part of each per diem paid by the 330
state which is proportional to the county shares of the total 331
compensation of a resident judge of such court. The county 332
treasurer shall forward the payment within thirty days. After 333
forwarding the payment, the county treasurer shall seek 334
reimbursement from the applicable local municipalities as 335
appropriate. 336

Sec. 2106.13. (A) If a person dies leaving a surviving 337
spouse and no minor children, leaving a surviving spouse and 338
minor children, or leaving minor children and no surviving 339
spouse, the surviving spouse, minor children, or both shall be 340
entitled to receive, subject to division (B) of this section, in 341

money or property the sum of forty thousand dollars as an 342
allowance for support. If the surviving spouse selected ~~one or~~ 343
~~more automobiles~~ more than one automobile under section 2106.18 344
of the Revised Code, the allowance for support prescribed by 345
this section shall be reduced by the value of the automobile 346
having the lowest value ~~if more than one automobile is of the~~ 347
automobiles so selected. The money or property set off as an 348
allowance for support shall be considered estate assets. 349

(B) The probate court shall order the distribution of the 350
allowance for support described in division (A) of this section 351
as follows: 352

(1) If the person died leaving a surviving spouse and no 353
minor children, one hundred per cent to the surviving spouse; 354

(2) If the person died leaving a surviving spouse and 355
minor children, and if all of the minor children are the 356
children of the surviving spouse, one hundred per cent to the 357
surviving spouse; 358

(3) If the person died leaving a surviving spouse and 359
minor children, and if not all of the minor children are 360
children of the surviving spouse, in equitable shares, as fixed 361
by the probate court in accordance with this division, to the 362
surviving spouse and the minor children who are not the children 363
of the surviving spouse. In determining equitable shares under 364
this division, the probate court shall do all of the following: 365

(a) Consider the respective needs of the surviving spouse, 366
the minor children who are children of the surviving spouse, and 367
the minor children who are not children of the surviving spouse; 368

(b) Allocate to the surviving spouse, the share that is 369
equitable in light of the needs of the surviving spouse and the 370

minor children who are children of the surviving spouse; 371

(c) Allocate to the minor children who are not children of 372
the surviving spouse, the share that is equitable in light of 373
the needs of those minor children. 374

(4) If the person died leaving minor children and no 375
surviving spouse, in equitable shares, as fixed by the probate 376
court in accordance with this division, to the minor children. 377
In determining equitable shares under this division, the probate 378
court shall consider the respective needs of the minor children 379
and allocate to each minor child the share that is equitable in 380
light of the child's needs. 381

(C) If the surviving spouse selected ~~one or more~~ 382
~~automobiles~~ more than one automobile under section 2106.18 of 383
the Revised Code, the probate court, in considering the 384
respective needs of the surviving spouse and the minor children 385
when allocating an allowance for support under division (B) (3) 386
of this section, shall consider the benefit derived by the 387
surviving spouse from the transfer of the automobile having the 388
lowest value ~~if more than one automobile is~~ of the automobiles 389
so selected. 390

(D) If, pursuant to this section, the probate court must 391
allocate the allowance for support, the administrator or 392
executor, within five months of the initial appointment of an 393
administrator or executor, shall file with the probate court an 394
application to allocate the allowance for support. 395

(E) The administrator or executor shall pay the allowance 396
for support unless a competent adult or a guardian with the 397
consent of the court having jurisdiction over the guardianship 398
waives the allowance for support to which the adult or the ward 399

represented by the guardian is entitled. 400

(F) For the purposes of this section, the value of an 401
automobile that a surviving spouse selects pursuant to section 402
2106.18 of the Revised Code is the value that the surviving 403
spouse specifies for the automobile in the affidavit executed 404
pursuant to division (B) of section 4505.10 of the Revised Code. 405

Sec. 2108.05. (A) A donor may make an anatomical gift by 406
doing any of the following: 407

(1) Authorizing a statement or symbol to be imprinted on 408
the donor's driver's license or identification card indicating 409
that the donor has certified a willingness to make an anatomical 410
gift; 411

~~(2) Specifying in the donor's will an intent to make an 412
anatomical gift;~~ 413

~~(3) Specifying an intent to make an anatomical gift in the 414
donor's declaration as described in section 2133.16 of the 415
Revised Code;~~ 416

~~(4) During a terminal illness or injury of the donor, 417
communicating in any manner to a minimum of two adults, at least 418
one of whom is a disinterested witness, that the donor intends 419
to make an anatomical gift;~~ 420

~~(5) (3) Following the procedure in division (B) of this 421
section. 422~~

(B) A donor or other person authorized to make an 423
anatomical gift under section 2108.04 of the Revised Code may 424
make a gift by a donor card or other record signed by the donor 425
or other person making the gift or by authorizing that a 426
statement or symbol indicating that the donor has certified a 427

willingness to make an anatomical gift be included in a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall do both of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person;

(2) State that it has been signed and witnessed as provided in division (B)(1) of this section.

(C) Once a donor has authorized a statement or symbol to be imprinted on the donor's driver's license or identification card indicating that the donor has certified a willingness to make an anatomical gift, the donor does not need to recertify the donor's willingness to make an anatomical gift upon renewal of the driver's license or identification card. The authorization shall remain in effect until the donor withdraws that authorization.

(D) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

~~(E) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.~~

Sec. 2108.06. (A) Subject to section 2108.08 of the Revised Code, an anatomical gift made under section 2108.04 of the Revised Code may be amended by any of the following means:

(1) By a record signed by the donor or other person

authorized to make an anatomical gift under section 2108.04 of 457
the Revised Code; 458

(2) Subject to division (C) of this section, by a record 459
signed by another individual acting at the direction of the 460
donor or other person authorized to make an anatomical gift 461
under section 2108.04 of the Revised Code if the donor or other 462
person is physically unable to sign; 463

(3) By a later-executed document of gift that amends a 464
previous anatomical gift or portion of an anatomical gift, 465
either expressly or by inconsistency; 466

(4) By any form of communication during a terminal illness 467
or injury addressed to at least two adults; 468

(5) By a parent who is reasonably available, if the donor 469
is an unemancipated minor who has died; 470

~~(6) If made in a will, by the manner provided for 471
amendment of wills or by any of the applicable means described 472
in divisions (B) (1) to (5) of this section. 473~~

(B) Subject to section 2108.08 of the Revised Code, an 474
anatomical gift made under section 2108.04 of the Revised Code 475
may be revoked by any of the following means: 476

(1) By a record signed by the donor or other person 477
authorized to make an anatomical gift under section 2108.04 of 478
the Revised Code; 479

(2) Subject to division (C) of this section, by a record 480
signed by another individual acting at the direction of the 481
donor or other person authorized to make an anatomical gift 482
under section 2108.04 of the Revised Code if the donor or other 483
person is physically unable to sign; 484

(3) By a later-executed document of gift that revokes a 485
previous anatomical gift or portion of an anatomical gift, 486
either expressly or by inconsistency; 487

(4) By any form of communication during a terminal illness 488
or injury addressed to at least two adults; 489

(5) By a parent who is reasonably available, if the donor 490
is an unemancipated minor who has died; 491

(6) By the destruction or cancellation of the document of 492
gift, or the portion of the document of gift, used to make the 493
gift, with the intent to revoke the gift; 494

~~(7) If made in a will, by the manner provided for 495
revocation of wills or by any of the applicable means described 496
in divisions (B) (1) to (6) of this section. 497~~

(C) A record signed pursuant to division (A) (2) or (B) (2) 498
of this section shall do both of the following: 499

(1) Be witnessed by a minimum of two adults who have 500
signed at the request of the donor or other person; 501

(2) State that it has been signed and witnessed as 502
provided in division (C) (1) of this section. 503

Sec. 2108.07. (A) An individual may refuse to make an 504
anatomical gift of the individual's body or part by doing any of 505
the following: 506

(1) Indicating a refusal in a record signed by either of 507
the following: 508

(a) The individual; 509

(b) Subject to division (B) of this section, another 510
individual acting at the direction of the individual, if the 511

individual is physically unable to sign. 512

~~(2) Indicating a refusal in the individual's will, whether 513
or not the will is admitted to probate or invalidated after the 514
individual's death; 515~~

~~(3) Indicating a refusal by any form of communication made 516
by the individual during the individual's terminal illness or 517
injury addressed to a minimum of two adults. 518~~

(B) A record signed pursuant to division (A) (1) (b) of this 519
section shall do both of the following: 520

(1) Be witnessed by at least two adults who have signed at 521
the request of the individual; 522

(2) State that it has been signed and witnessed as 523
provided in division (B) (1) of this section. 524

(C) An individual who has made a refusal may amend or 525
revoke the refusal by doing any of the following: 526

(1) Amending or revoking the refusal in the manner 527
provided in division (A) of this section for making a refusal; 528

(2) Subsequently making an anatomical gift pursuant to 529
section 2108.05 of the Revised Code that is inconsistent with 530
the refusal; 531

(3) Destroying or canceling the record evidencing the 532
refusal, or the portion of the record used to make the refusal, 533
with the intent to revoke the refusal. 534

(D) Except as provided in division (E) of this section, in 535
the absence of an express, contrary indication by the individual 536
set forth in the refusal, an individual's unrevoked refusal to 537
make an anatomical gift of the individual's body or part bars 538

all other persons from making an anatomical gift of the 539
individual's body or part. 540

(E) The parent of a deceased unemancipated minor who is 541
reasonably available may revoke a refusal made by the minor. 542

Sec. 2108.23. (A) (1) The bureau of motor vehicles shall 543
develop and maintain a donor registry that identifies each 544
individual who has agreed to make an anatomical gift by a 545
designation on a driver's license or identification card as 546
provided in division (A) (1) of section 2108.05 of the Revised 547
Code. The registry shall be fully operational not later than 548
July 1, 2002. 549

(2) Any person who provides to the bureau the form set 550
forth in division ~~(D) (2)~~ (C) (2) of section 2133.07 of the 551
Revised Code requesting to be included in the donor registry 552
shall be included. 553

(B) The bureau shall maintain the registry in a manner 554
that provides to organ procurement organizations, tissue banks, 555
and eye banks immediate access to the information in the 556
registry twenty-four hours a day and seven days a week. 557

(C) (1) The registrar of motor vehicles, in consultation 558
with the director of health and the second chance trust fund 559
advisory committee created under section 2108.35 of the Revised 560
Code, shall formulate proposed rules that specify all of the 561
following: 562

(a) The information to be included in the registry; 563

(b) A process, in accordance with division (B) of section 564
2108.06 of the Revised Code, for an individual to revoke the 565
individual's intent to make an anatomical gift and for updating 566
information in the registry; 567

(c) How the registry will be made available to organ procurement organizations, tissue banks, and eye banks;	568 569
(d) Limitations on the use of and access to the registry;	570
(e) How information on organ, tissue, and eye donation will be developed and disseminated to the public by the bureau and the department of health;	571 572 573
(f) Anything else the registrar considers appropriate.	574
(2) In adopting the proposed rules under this division, the registrar may consult with any person or entity that expresses an interest in the matters to be dealt with in the rules.	575 576 577 578
(3) Following formulation of the proposed rules, but not later than January 1, 2002, the registrar shall adopt rules in accordance with Chapter 119. of the Revised Code.	579 580 581
(D) The costs of developing and initially implementing the registry shall be paid from the second chance trust fund created in section 2108.34 of the Revised Code.	582 583 584
Sec. 2108.24. (A) As used in this section:	585
(1) "Advance health-care directive" means a durable power of attorney for health care or a record signed by a prospective donor containing the prospective donor's direction concerning a health-care decision.	586 587 588 589
(2) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.	590 591
(3) "Health care decision" means any decision regarding the health care of the prospective donor.	592 593
(B) If a prospective donor has a declaration or an advance	594

health-care directive the terms of which are in conflict with 595
the express or implied terms of a potential anatomical gift with 596
regard to administration of measures necessary to ensure the 597
medical suitability of a part for transplantation or therapy and 598
the prospective donor is capable of resolving the conflict, 599
subject to division (G) of this section, the prospective donor's 600
attending physician shall confer with the prospective donor to 601
resolve the conflict. 602

(C) If a prospective donor has ~~a declaration or an~~ advance 603
health-care directive the terms of which are in conflict with 604
the express or implied terms of a potential anatomical gift with 605
regard to administration of measures necessary to ensure the 606
medical suitability of a part for transplantation or therapy and 607
the prospective donor is incapable of resolving the conflict, 608
one of the following shall apply depending on the circumstances: 609

(1) If the prospective donor has an agent, the agent 610
shall, subject to division (G) of this section, act for the 611
prospective donor to resolve the conflict. 612

(2) If the prospective donor does not have an agent, the 613
individual or class of individuals determined in the following 614
descending order of priority and subject to divisions (D), (E), 615
(F), and (G) of this section shall act for the prospective donor 616
to resolve the conflict: 617

(a) The prospective donor's surviving spouse; 618

(b) The prospective donor's surviving adult children; 619

(c) The prospective donor's surviving parent or parents; 620

(d) The prospective donor's surviving adult siblings; 621

(e) The prospective donor's surviving adult grandchildren; 622

(f) The prospective donor's surviving grandparent or	623
grandparents;	624
(g) A surviving adult who exhibited special care and	625
concern for the prospective donor;	626
(h) The prospective donor's guardians of the person;	627
(i) The persons, other than those in divisions (C) (2) (a)	628
to (h) of this section, to whom the prospective donor has	629
assigned the right of disposition for the prospective donor's	630
body pursuant to section 2108.70 of the Revised Code or who have	631
the right of disposition for the prospective donor's body at the	632
time of death as described in section 2108.81 of the Revised	633
Code.	634
(D) If an appropriate individual entitled to resolve a	635
conflict between the terms of a prospective donor's declaration	636
or advance health-care directive and the express or implied	637
terms of a potential anatomical gift as described in division	638
(C) of this section is not reasonably available to resolve the	639
conflict, is incapacitated, or declines to resolve the conflict,	640
the next priority individual or class of individuals specified	641
in that division is authorized to resolve the conflict.	642
(E) If at least one individual in a class of individuals	643
entitled to resolve a conflict between the terms of a	644
prospective donor's declaration or advance health-care directive	645
and the express or implied terms of a potential anatomical gift	646
is not reasonably available, is incapacitated, or declines to	647
resolve the conflict, the conflict shall be resolved by the	648
individual or individuals in the class who are reasonably	649
available, not incapacitated, and willing to resolve the	650
conflict.	651

(F) If individuals in a class of individuals determined in accordance with division (C) (2) of this section disagree on how a conflict between the terms of a prospective donor's ~~declaration or~~ advance health-care directive and the express or implied terms of a potential anatomical gift should be resolved, the opinion of the majority of the individuals who are reasonably available, not incapacitated, and are willing to resolve the conflict shall prevail.

(G) A conflict between the terms of a prospective donor's ~~declaration or~~ advance health-care directive and the express or implied terms of a potential anatomical gift with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy shall be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 2108.09 of the Revised Code. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part shall not be withheld or withdrawn from the prospective donor unless withholding or withdrawing the measures is necessary for appropriate end-of-life care.

Sec. 2108.34. (A) There is hereby created in the state treasury the second chance trust fund. The fund shall consist of voluntary contributions deposited as provided in sections 4503.721, 4506.081, 4507.231, and 4507.501 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B) The director of health shall use the money in the fund only for the following purposes:

- (1) Development and implementation of a campaign that 682
explains and promotes the second chance trust fund; 683
- (2) Development and implementation of local and statewide 684
public education programs about organ, tissue, and eye donation, 685
including the informational material required to be provided 686
under sections 4506.081, 4507.231, and 4507.501 of the Revised 687
Code; 688
- (3) Development and implementation of local and statewide 689
donor awareness programs in schools; 690
- (4) Development and implementation of local and statewide 691
programs to recognize donor families; 692
- (5) Development and distribution of materials promoting 693
organ, tissue, and eye donation; 694
- (6) Cooperation with the Ohio Supreme Court, Ohio State 695
Bar Association, and law schools of this state to more 696
effectively educate attorneys about the donation of anatomical 697
gifts and to encourage them to assist their clients in donating 698
anatomical gifts through anatomical gift declarations, durable 699
powers of attorney for health care, ~~declarations as defined in-~~ 700
~~section 2133.01 of the Revised Code, wills,~~ and any other 701
appropriate means; 702
- (7) Cooperation with the state medical board, state 703
medical, osteopathic, and ophthalmological associations, and 704
colleges of medicine and osteopathic medicine in this state to 705
more effectively educate physicians about the donation of 706
anatomical gifts and to encourage them to assist their patients 707
in making declarations of anatomical gifts; 708
- (8) Development of statewide hospital training programs to 709
encourage and facilitate compliance with sections 2108.14 and 710

2108.15 of the Revised Code;	711
(9) Reimbursement of the bureau of motor vehicles for the administrative costs incurred in the performance of duties under sections 4506.081, 4507.231, and 4507.501 of the Revised Code;	712 713 714
(10) Reimbursement of the department of health for administrative costs incurred in the performance of duties under this section and section 2108.35 of the Revised Code;	715 716 717
(11) Reimbursement of members of the second chance fund advisory committee for actual and necessary expenses incurred in the performance of official duties.	718 719 720
(C) The director shall make the materials developed under division (B) (5) of this section available to other state agencies.	721 722 723
(D) The director shall consider recommendations made by the second chance trust fund advisory committee pursuant to section 2108.35 of the Revised Code. The director shall determine the appropriateness of and approve or disapprove projects recommended by the advisory committee for funding and approve or disapprove the disbursement of money from the second chance trust fund.	724 725 726 727 728 729 730
Sec. 2111.10. <u>(A)</u> As used in this section, "developmental disability" has the same meaning as in section 5123.01 of the Revised Code.	731 732 733
<u>(B)</u> Any appointment of a corporation as guardian shall apply to the estate only and not to the person, except that a <u>when either of the following applies:</u>	734 735 736
<u>(1)</u> A nonprofit corporation organized under the laws of this state and entitled to tax exempt status under section	737 738

501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 739
26 ~~U.S.C.A.~~ U.S.C. 501, ~~as amended~~, that has a contract with the 740
department of developmental disabilities to provide protective 741
services may be appointed as a guardian of a person with a 742
developmental disability and may serve as guardian pursuant to 743
sections 5123.55 to 5123.59 of the Revised Code. 744

(2) A nonprofit corporation domiciled in this state and 745
organized under the laws of this state and entitled to tax 746
exempt status under section 501(a) of the "Internal Revenue Code 747
of 1986," 100 Stat. 2085, 26 U.S.C. 501 may be appointed as a 748
guardian of the person of an incompetent when certified by the 749
probate court to receive such an appointment. The probate court 750
shall certify that nonprofit corporation and any individual 751
acting as a guardian on behalf of the nonprofit corporation upon 752
meeting the requirements for serving as a guardian as prescribed 753
by the supreme court in the Rules of Superintendence for the 754
Courts of Ohio and the rules of court adopted by the probate 755
court of the county exercising jurisdiction over the 756
incompetent. A nonprofit corporation appointed as guardian of 757
the person of an incompetent shall not be the residential 758
caregiver, health care provider, or employer of the incompetent. 759

Sec. 2111.50. (A) (1) At all times, the probate court is 760
the superior guardian of wards who are subject to its 761
jurisdiction, and all guardians who are subject to the 762
jurisdiction of the court shall obey all orders of the court 763
that concern their wards or guardianships. 764

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 765
section, the control of a guardian over the person, the estate, 766
or both of the guardian's ward is limited to the authority that 767
is granted to the guardian by the Revised Code, relevant 768

decisions of the courts of this state, and orders or rules of 769
the probate court. 770

(b) Except for the powers specified in division (E) of 771
this section and unless otherwise provided in or inconsistent 772
with another section of the Revised Code, the probate court may 773
confer upon a guardian any power that this section grants to the 774
probate court in connection with wards. Nothing in this section 775
is intended to create or imply a duty upon a guardian to apply 776
for authority to exercise any power authorized in this section. 777
No inference of impropriety or liability of the guardian or 778
others associated with the guardian shall arise as a result of a 779
guardian not applying for authority to exercise a power 780
authorized in this section. 781

(c) For good cause shown, the probate court may limit or 782
deny, by order or rule, any power that is granted to a guardian 783
by a section of the Revised Code or relevant decisions of the 784
courts of this state. 785

(B) In connection with any person whom the probate court 786
has found to be an incompetent or a minor subject to 787
guardianship and for whom the court has appointed a guardian, 788
the court has, subject to divisions (C) to (E) of this section, 789
all the powers that relate to the person and estate of the ward 790
and that the ward could exercise if present and not a minor or 791
under a disability, except the power to make or revoke a will. 792
These powers include, but are not limited to, the power to do 793
any of the following: 794

(1) Convey ~~or~~, release, or disclaim the present, 795
contingent, or expectant interests in real or personal property 796
of the ward, including, but not limited to, dower and any right 797
of survivorship incident to a transfer on death designation, 798

<u>payable on death designation,</u> survivorship tenancy, joint	799
tenancy, or tenancy by the entireties;	800
(2) Exercise or, <u>release, or disclaim</u> powers as a trustee,	801
personal representative, custodian for a minor, guardian, or	802
donee of a power of appointment;	803
(3) Enter <u>Subject to division (B) (4) of this section,</u>	804
<u>enter into contracts, or create revocable trusts of property of</u>	805
<u>the estate of the ward,</u> that may not extend beyond the minority,	806
disability, or life of the ward;	807
(4) <u>Create, amend, or revoke revocable trusts of property</u>	808
<u>of the estate of the ward that may extend beyond the minority,</u>	809
<u>disability, or life of the ward;</u>	810
<u>(5)</u> Exercise options to purchase securities or other	811
property;	812
(5) <u>(6)</u> Exercise rights to elect options under annuities	813
and insurance policies, <u>including changing beneficiaries of</u>	814
<u>insurance policies, retirement plans, individual retirement</u>	815
<u>accounts, and annuities,</u> and to surrender an annuity or	816
insurance policy for its cash value;	817
(6) <u>(7)</u> Exercise the right to an elective share in the	818
estate of the deceased spouse of the ward pursuant to section	819
2106.08 <u>Chapter 2106.</u> of the Revised Code;	820
(7) <u>(8)</u> Make gifts, in trust or otherwise, to relatives of	821
the ward and, consistent with any prior pattern of the ward of	822
giving to charities or of providing support for friends, to	823
charities and friends of the ward.	824
(C) Except for the powers specified in division (D) of	825
this section, all powers of the probate court that are specified	826

in this chapter and that relate either to any person whom it has 827
found to be an incompetent or a minor subject to guardianship 828
and for whom it has appointed a guardian and all powers of a 829
guardian that relate to the guardian's ward or guardianship as 830
described in division (A) (2) of this section, shall be exercised 831
in the best interest, as determined in the court's or guardian's 832
judgment, of the following: 833

(1) The ward whom the probate court has found to be an 834
incompetent or a minor subject to guardianship; 835

(2) The dependents of the ward; 836

(3) The members of the household of the ward. 837

(D) If the court is to exercise or direct the exercise, 838
pursuant to division (B) of this section, of the power to make 839
gifts in trust or otherwise, the following conditions shall 840
apply: 841

(1) The exercise of the particular power shall not impair 842
the financial ability of the estate of the ward whom the probate 843
court has found to be an incompetent or a minor subject to 844
guardianship and for whom the court has appointed a guardian, to 845
provide for the ward's foreseeable needs for maintenance and 846
care; 847

(2) If applicable, the court shall consider any of the 848
following: 849

(a) The estate, income, and other tax advantages of the 850
exercise of a particular power to the estate of a ward whom the 851
probate court has found to be an incompetent or a minor subject 852
to guardianship and for whom the court has appointed a guardian; 853

(b) Any pattern of giving of, or any pattern of support 854

provided by, the ward prior to the ward's incompetence; 855

(c) The disposition of property made by the ward's will or 856
revocable trust; 857

(d) If there is no knowledge of a will or revocable trust 858
of the ward, the ward's prospective heirs; 859

(e) Any relevant and trustworthy statements of the ward, 860
whether established by hearsay or other evidence. 861

(E) (1) The probate court shall cause notice as described 862
in division (E) (2) of this section to be given and a hearing to 863
be conducted prior to its exercise or direction of the exercise 864
of any of the following powers pursuant to division (B) of this 865
section: 866

(a) The exercise ~~or~~ , release, or disclaimer of powers as a 867
donee of a power of appointment; 868

(b) Unless the amount of the gift is no more than one 869
thousand dollars, the making of a gift, in trust or otherwise; 870

(c) The power to create, amend, or revoke a revocable 871
trust as described in division (B) (4) of this section; 872

(d) The power to exercise rights to elect options under 873
annuities and insurance policies, including changing 874
beneficiaries of insurance policies, retirement plans, 875
individual retirement accounts, and annuities, and to surrender 876
an annuity or insurance policy for its cash value, as described 877
in division (B) (6) of this section. 878

(2) The notice required by division (E) (1) of this section 879
shall be given to the following persons: 880

(a) Unless a guardian of a ward has applied for the 881

exercise of a power specified in division (E) (1) of this 882
section, to the guardian; 883

(b) To the ward whom the probate court has found to be an 884
incompetent or a minor subject to guardianship; 885

(c) If known, to a guardian who applied for the exercise 886
of a power specified in division (E) (1) of this section, to the 887
prospective heirs of the ward whom the probate court has found 888
to be an incompetent or a minor subject to guardianship under 889
section 2105.06 of the Revised Code, to the beneficiaries under 890
the last known will of the ward or under an existing revocable 891
trust of the ward, and to any person who has a legal interest in 892
property that may be divested or limited as the result of the 893
exercise of a power specified in division (E) (1) of this 894
section; 895

(d) To all of the following as applicable: 896

(i) The heirs at law and next of kin of the ward; 897

(ii) The beneficiaries under an existing will or revocable 898
trust of the ward; 899

(iii) The beneficiaries of any insurance policies, 900
retirement plans, individual retirement accounts, and annuities 901
owned by the ward; 902

(iv) The beneficiaries under any proposed revocable trust 903
and the proposed beneficiaries under any changes in the 904
designation of beneficiaries of any insurance policies, 905
retirement plans, individual retirement accounts, or annuities 906
as described in division (E) (2) (d) (iii) of this section. 907

(e) To any other persons the court orders. 908

(F) When considering any question related to, and issuing 909

orders for, medical or surgical care or treatment of 910
incompetents or minors subject to guardianship, the probate 911
court has full parens patriae powers unless otherwise provided 912
by a section of the Revised Code. 913

Sec. 2133.07. (A) As used in this section+ 914

~~(1) "Anatomical gift" has the same meaning as in section 915
2108.01 of the Revised Code. 916~~

~~(2) "DNR identification" has the same meaning as in 917
section 2133.21 of the Revised Code. 918~~

(B) A printed form of a declaration may be sold or 919
otherwise distributed in this state for use by adults who are 920
not advised by an attorney. By use of a printed form of that 921
nature, a declarant may authorize the use or continuation, or 922
the withholding or withdrawal, of life-sustaining treatment 923
should the declarant be in a terminal condition, a permanently 924
unconscious state, or either a terminal condition or a 925
permanently unconscious state, may authorize the withholding or 926
withdrawal of nutrition or hydration should the declarant be in 927
a permanently unconscious state as described in division (A)(3) 928
(a) of section 2133.02 of the Revised Code, and may designate 929
one or more persons who are to be notified by the declarant's 930
attending physician at any time that life-sustaining treatment 931
would be withheld or withdrawn pursuant to the declaration. The 932
printed form shall not be used as an instrument for granting any 933
other type of authority or for making any other type of 934
designation, except that the printed form may be used as a DNR 935
identification if the declarant specifies on the form that the 936
declarant wishes to use it as a DNR identification ~~and except as 937
provided in division (C) of this section. 938~~

~~(C) A printed form of a declaration under division (B) of
this section shall include, before the signature of the
declarant or another individual at the direction of the
declarant, statements that conform substantially to the
following form:~~

~~"ANATOMICAL GIFT (optional)~~

~~Upon my death, the following are my directions regarding
donation of all or part of my body:~~

~~In the hope that I may help others upon my death, I hereby
give the following body parts:~~

~~_____
_____~~

~~for any purpose authorized by law: transplantation, therapy,
research, or education.~~

~~If I do not indicate a desire to donate all or part of my
body by filling in the lines above, no presumption is created
about my desire to make or refuse to make an anatomical gift."~~

~~(D) (1) A printed form of a declaration under division (B)
of this section shall include, as a separate page or as a
portion of a page that can be detached from the declaration, a
donor registry enrollment form that permits the donor to be
included in the donor registry created under section 2108.23 of
the Revised Code.~~

~~(2) The donor registry enrollment form may be in any form
that complies with the requirements of division (B) of section
2108.05 of the Revised Code. On completion, the form shall be
forwarded to the bureau of motor vehicles.~~

Sec. 2701.10. (A) Any voluntarily retired judge, or any 966
judge who is retired under Section 6 of Article IV, Ohio 967
Constitution, may register with the clerk of any court of common 968
pleas, municipal court, or county court for the purpose of 969
receiving referrals for adjudication of civil actions or 970
proceedings, and submissions for determination of specific 971
issues or questions of fact or law in any civil action or 972
proceeding, pending in the court. There is no limitation upon 973
the number, type, or location of courts with which a retired 974
judge may register under this division. Upon registration with 975
the clerk of any court under this division, the retired judge is 976
eligible to receive referrals and submissions from that court, 977
in accordance with this section. Each court of common pleas, 978
municipal court, and county court shall maintain an index of all 979
retired judges who have registered with the clerk of that court 980
pursuant to this division and shall make the index available to 981
any person, upon request. 982

(B) (1) The parties to any civil action or proceeding 983
pending in any court of common pleas, municipal court, or county 984
court unanimously may choose to have the action or proceeding in 985
its entirety referred for adjudication, or to have any specific 986
issue or question of fact or law in the action or proceeding 987
submitted for determination, to a judge of their choosing who 988
has registered with the clerk of that court in accordance with 989
division (A) of this section. 990

If the parties unanimously do choose to have a referral or 991
submission made to a retired judge pursuant to this section, all 992
of the parties to the action or proceeding shall enter into a 993
written agreement with the retired judge that does all of the 994
following: 995

(a) Designates the retired judge to whom the referral or submission is to be made;	996 997
(b) If a submission is to be made, describes in detail the specific issue or question to be submitted;	998 999
(c) Indicates either of the following:	1000
(i) That the action or proceeding in its entirety is to be referred to, and is to be tried, determined, and adjudicated by that retired judge;	1001 1002 1003
(ii) Indicates that the issue or question is to be submitted, and is to be tried and determined by that retired judge.	1004 1005 1006
(d) Indicates that the parties will assume the responsibility for providing facilities, equipment, and personnel reasonably needed by the retired judge during his <u>the retired judge's</u> consideration of the action or proceeding and will pay all costs arising out of the provision of the facilities, equipment, and personnel;	1007 1008 1009 1010 1011 1012
(e) Identifies an amount of compensation to be paid by the parties to the retired judge for his <u>the retired judge's</u> services and the manner of payment of the compensation;	1013 1014 1015
<u>(f) Indicates a procedure for terminating the agreement with the retired judge.</u>	1016 1017
(2) In any case described in division (B) (1) of this section, the agreement shall be filed with the clerk of the court or the judge before whom the action or proceeding is pending. Upon the filing of the agreement, the <u>The</u> judge before whom the action or proceeding is pending <u>shall address the agreement within fourteen days after its filing. That judge, by</u>	1018 1019 1020 1021 1022 1023

journal entry, ~~shall may, at the judge's discretion,~~ order the 1024
referral or submission in accordance with the agreement. No 1025
referral or submission shall be made to a retired judge under 1026
this section, unless the parties to the action or proceeding 1027
unanimously choose to have the referral or submission made, 1028
enter into an agreement of the type described in division (B) (1) 1029
of this section with the retired judge, and file the agreement 1030
in accordance with this division. 1031

(C) Upon the entry of an order of referral or submission 1032
in accordance with division (B) (2) of this section, the retired 1033
judge to whom the referral or submission is made, relative to 1034
the action or proceeding referred or the issue or question 1035
submitted, shall have all of the powers, duties, and authority 1036
of an active judge of the court in which the action or 1037
proceeding is pending. The court in which the action or 1038
proceeding is pending is not required to provide the retired 1039
judge with court or other facilities, equipment, or personnel 1040
during ~~his~~ the retired judge's consideration of the action, 1041
proceeding, issue, or question. The retired judge shall not 1042
receive any compensation, other than that agreed to by the 1043
parties and the retired judge, for ~~his~~ the retired judge's 1044
services during ~~his~~ consideration of the action, proceeding, 1045
issue, or question. 1046

(D) (1) A retired judge to whom a referral is made under 1047
this section shall try all of the issues in the action or 1048
proceeding, shall prepare relevant findings of fact and 1049
conclusions of law, and shall enter a judgment in the action or 1050
proceeding in the same manner as if ~~he~~ the retired judge were an 1051
active judge of the court. A retired judge to whom a submission 1052
is made under this section shall try the specific issue or 1053
question submitted, shall prepare relevant findings of fact or 1054

conclusions of law, shall make a determination on the issue or 1055
question submitted, and shall file the findings, conclusions, 1056
and determination with the clerk of the court in which the 1057
action or proceeding is pending. Any judgment entered, and any 1058
finding of fact, conclusion of law, or determination of an issue 1059
or question made, by a retired judge in accordance with this 1060
section shall have the same force and effect as if it had been 1061
entered or made by an active judge of the court, and any appeal 1062
from the judgment, finding, conclusion, or determination shall 1063
be made as if the judgment had been entered, or the finding, 1064
conclusion, or determination had been made, by an active judge 1065
of the court. 1066

(2) Upon conclusion of the referred action or proceeding 1067
or determination of the submitted issue or question, 1068
jurisdiction is returned to the referring judge. 1069

(E) Any judge who registers with any court in accordance 1070
with division (A) of this section may have ~~his~~ the judge's name 1071
removed from the index of registered retired judges maintained 1072
by that court at any time after the registration. On and after 1073
the date of removal of the name of a retired judge from the 1074
index of a court, the retired judge is not eligible under this 1075
section to receive referrals or submissions from that court. 1076

(F) This section does not affect, and shall not be 1077
construed as affecting, the provisions of section 141.16 of the 1078
Revised Code. This section does not apply to any action or 1079
proceeding pending in a small claims division of a municipal 1080
court or county court. 1081

Sec. 2717.01. As used in this chapter: 1082

(A) "Application" means, as context requires, an 1083

application under section 2717.02, 2717.04, or 2717.13 of the 1084
Revised Code. 1085

(B) "Applicant" means, as context requires, a person who 1086
makes the filing under section 2717.02 or 2717.04 of the Revised 1087
Code, or the minor on whose behalf a filing is made under 1088
section 2717.13 of the Revised Code. 1089

(C) "Conform" means to make a person's legal name 1090
consistent in all official identity documents by correcting a 1091
misspelling, inconsistency, or other error in an official 1092
identity document. 1093

(D) "Official identity document" means a birth record, 1094
marriage record, divorce decree, driver's license, state issued 1095
identification card, social security card with the social 1096
security number redacted, passport, or any other official 1097
government-issued document required or commonly used to verify a 1098
person's identity. 1099

(E) "Sexually oriented offense" and "child-victim oriented 1100
offense" have the same meanings as in section 2950.01 of the 1101
Revised Code. 1102

Sec. ~~2717.01~~ 2717.02. ~~(A) (1) A person desiring a to change~~ 1103
~~of the person's name may file an application in the probate~~ 1104
~~court of the county in which the person resides. The application~~ 1105
~~shall set forth that the applicant has been a bona fide resident~~ 1106
~~of that county for at least one year prior to the filing of the~~ 1107
~~application, the cause for which the change of name is sought,~~ 1108
~~and the requested new name. The application shall require the~~ 1109
~~applicant to state whether the applicant has been convicted of,~~ 1110
~~pleaded guilty to, or been adjudicated a delinquent child for~~ 1111
~~identity fraud or has a duty to comply with section 2950.04 or~~ 1112

~~2950.041 of the Revised Code because the applicant was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim-oriented offense.~~ 1113
1114
1115
1116

~~(2) Except as provided in division (A)(4) of this section, notice of the application shall be given once by publication in a newspaper of general circulation in the county at least thirty days before the hearing on the application. The notice shall set forth the court in which the application was filed, the case number, and the date and time of the hearing.~~ 1117
1118
1119
1120
1121
1122

~~(3) Except as provided by division (C) of this section, upon proof that proper notice was given or that notice was waived under division (A)(4) of this section and proof that the facts set forth in the application show reasonable and proper cause for changing the name of the applicant, the court may order the change of name.~~ 1123
1124
1125
1126
1127
1128

~~(4) If an applicant for a change of name submits to the court, along with the application described in division (A)(1) of this section, satisfactory proof that the publication of the notice under division (A)(2) of this section would jeopardize the applicant's personal safety, both of the following apply:~~ 1129
1130
1131
1132
1133

~~(a) The court shall waive the notice requirement.~~ 1134

~~(b) If the court orders the change of name under division (A)(3) of this section, the court shall order the records of the change of name proceeding to be sealed and to be opened only by order of the court for good cause shown or at the request of the applicant for any reason.~~ 1135
1136
1137
1138
1139

~~(B) An application for change of name may be made on behalf of a minor by either of the minor's parents, a legal~~ 1140
1141

~~guardian, or a guardian ad litem. When application is made on~~ 1142
~~behalf of a minor, in addition to the notice and proof required~~ 1143
~~pursuant to division (A) of this section, the consent of both~~ 1144
~~living, legal parents of the minor shall be filed, or notice of~~ 1145
~~the hearing shall be given to the parent or parents not~~ 1146
~~consenting by certified mail, return receipt requested. If there~~ 1147
~~is no known father of the minor, the notice shall be given to~~ 1148
~~the person who the mother of the minor alleges to be the father.~~ 1149
~~If no father is so alleged, or if either parent or the address~~ 1150
~~of either parent is unknown, notice pursuant to division (A) of~~ 1151
~~this section shall be sufficient as to the father or parent.~~ 1152

~~Any additional notice required by this division may be~~ 1153
~~waived in writing by any person entitled to the notice.~~ 1154

~~(C) (1) The court shall not order a change of name under~~ 1155
~~division (A) of this section if the person applying for a change~~ 1156
~~of name or for whom the application for a change of name is made~~ 1157
~~has a duty to comply with section 2950.04 or 2950.041 of the~~ 1158
~~Revised Code because the applicant or the person on whose behalf~~ 1159
~~the application for a change of name is made was convicted of,~~ 1160
~~pleaded guilty to, or was adjudicated a delinquent child for~~ 1161
~~having committed a sexually oriented offense or a child-victim-~~ 1162
~~oriented offense.~~ 1163

~~(2) The court shall not order a change of name under~~ 1164
~~division (A) of this section if the person applying for a change~~ 1165
~~of name or for whom the application for a change of name is made~~ 1166
~~has pleaded guilty to, been convicted of, or been adjudicated a~~ 1167
~~delinquent child for committing a violation of section 2913.49-~~ 1168
~~of the Revised Code unless the guilty plea, conviction, or~~ 1169
~~adjudication has been reversed on appeal.~~ 1170

~~(3) As used in this division, "sexually oriented offense"~~ 1171

~~and "child victim oriented offense" have the same meanings as in~~ 1172
~~section 2950.01 of the Revised Code.~~ 1173

Sec. 2717.03. Subject to sections 2717.07 and 2717.19 of 1174
the Revised Code, an application for a change of name shall set 1175
forth all of the following: 1176

(A) That the applicant has been a bona fide resident of 1177
the county for at least sixty days prior to the filing of the 1178
application. 1179

(B) The reason for which the change of name is sought. 1180

(C) The requested new name. 1181

Sec. 2717.04. A person desiring to conform the person's 1182
legal name on an official identity document may file an 1183
application in the probate court of the county in which the 1184
person resides. 1185

Sec. 2717.05. Subject to sections 2717.07 and 2717.19 of 1186
the Revised Code, an application to conform a legal name shall 1187
set forth all of the following: 1188

(A) That the applicant has been a bona fide resident of 1189
the county where the applicant is filing for at least sixty days 1190
prior to the filing of the application. 1191

(B) An explanation of the misspelling, inconsistency, or 1192
other error in the name. 1193

(C) A description of the correction sought to conform the 1194
name on all official identity documents. 1195

Sec. 2717.06. (A) An application shall be supported by an 1196
affidavit verifying all of the following: 1197

(1) The applicant's residency in the county for a period 1198

of at least sixty days; 1199

(2) That the application is not made for the purpose of 1200
evading any creditors or other obligations; 1201

(3) That the applicant is not a debtor in any currently 1202
pending bankruptcy proceeding; 1203

(4) That all of the documentary evidence submitted under 1204
section 2717.07 of the Revised Code with the application is 1205
true, accurate, and complete; 1206

(5) Any other information the court may require. 1207

(B) The affidavit supporting a legal name change 1208
application shall also verify that the applicant has not been 1209
convicted of, pleaded guilty to, or been adjudicated a 1210
delinquent child for identity fraud or does not have a duty to 1211
comply with section 2950.04 or 2950.041 of the Revised Code 1212
because the applicant was convicted of, pleaded guilty to, or 1213
was adjudicated a delinquent child for having committed a 1214
sexually oriented offense or a child-victim oriented offense. 1215

Sec. 2717.07. A probate court by local rule or order may 1216
require an applicant to submit a copy of any or all of the 1217
applicant's official identity documents or other documentary 1218
evidence relating to the applicant's identity that the court 1219
deems relevant to the application. 1220

Sec. 2717.08. The probate court may hold a hearing on an 1221
application. Except as provided in sections 2717.11 and 2717.14 1222
of the Revised Code, if the court requires a hearing, it shall 1223
set the manner, scope, and content of the hearing notice the 1224
applicant must serve. 1225

Sec. 2717.09. Except as provided under section 2717.16 of 1226

the Revised Code, upon proof that the facts set forth in the 1227
application show reasonable and proper cause for changing the 1228
name of the applicant and, if applicable, upon proof that proper 1229
notice was served, the court may order the change of name. 1230

Sec. 2717.10. Upon proof that the facts set forth in the 1231
application show that a misspelling, inconsistency, or other 1232
error of the applicant's legal name on an official identity 1233
document exists, and that reasonable and proper cause exists for 1234
issuing an order that resolves the discrepancy and conforms the 1235
applicant's legal name, the court may issue an order to conform 1236
the name of the person. 1237

Sec. 2717.11. If an applicant submits to the court, along 1238
with the application, satisfactory proof that open records of 1239
the name change or conformity, or publication of the hearing 1240
notice under section 2717.08 of the Revised Code, would 1241
jeopardize the applicant's personal safety, both of the 1242
following apply: 1243

(A) The court shall waive the hearing notice requirement. 1244

(B) If the court orders the change of name under section 1245
2717.09 of the Revised Code or the name conformity under section 1246
2717.10 of the Revised Code, the court shall order the records 1247
of the proceeding to be sealed and to be opened only by order of 1248
the court for good cause shown or at the request of the 1249
applicant for any reason. 1250

Sec. 2717.13. An application for change of name under 1251
section 2717.02 of the Revised Code or to conform a name under 1252
section 2717.04 of the Revised Code may be made on behalf of a 1253
minor by either of the minor's parents, a legal guardian, a 1254
legal custodian, or a guardian ad litem. 1255

Sec. 2717.14. (A) When an application is made on behalf of 1256
a minor, in addition to the proof required under sections 1257
2717.03 or 2717.05 of the Revised Code and, if applicable, proof 1258
of the notice given under section 2717.08 of the Revised Code, 1259
the consent of both living, legal parents of the minor shall be 1260
filed, or notice of the hearing shall be given to the parent or 1261
parents not consenting by certified mail, return receipt 1262
requested. 1263

(B) If there is no known father of the minor, the notice 1264
shall be given to the person who the mother of the minor alleges 1265
to be the father. 1266

(C) If no father is so alleged, or if either parent or the 1267
address of either parent is unknown, notice by publication in a 1268
newspaper of general circulation in the county at least thirty 1269
days before the hearing shall be sufficient as to the father or 1270
parent. 1271

(D) Any additional notice required by this section may be 1272
waived in writing by any person entitled to the notice. 1273

Sec. 2717.16. (A) The court shall not order a change of 1274
name under section 2717.09 of the Revised Code if the person 1275
applying for a change of name has a duty to comply with section 1276
2950.04 or 2950.041 of the Revised Code because the applicant 1277
was convicted of, pleaded guilty to, or was adjudicated a 1278
delinquent child for having committed a sexually oriented 1279
offense or a child-victim oriented offense. 1280

(B) The court shall not order a change of name under 1281
section 2717.09 of the Revised Code if the person applying for a 1282
change of name has pleaded guilty to, been convicted of, or been 1283
adjudicated a delinquent child for committing a violation of 1284

section 2913.49 of the Revised Code unless the guilty plea, 1285
conviction, or adjudication has been reversed on appeal. 1286

Sec. 2717.18. An action to conform the legal name of a 1287
person under section 2717.04 of the Revised Code shall not be 1288
permitted in lieu of either of the following: 1289

(A) Correction of a birth record under section 3705.15 of 1290
the Revised Code; 1291

(B) Changing a legal name to a name that is not used in 1292
any existing official identity documents. 1293

Sec. 2717.19. (A) On receipt of an application, the 1294
probate court may order a criminal records check. 1295

(B) Any fee required for the criminal records check shall 1296
be paid by the applicant. 1297

Sec. 5122.15. (A) Full hearings shall be conducted in a 1298
manner consistent with this chapter and with due process of law. 1299
The hearings shall be conducted by a judge of the probate court 1300
or a referee designated by a judge of the probate court and may 1301
be conducted in or out of the county in which the respondent is 1302
held. Any referee designated under this division shall be an 1303
attorney. 1304

(1) With the consent of the respondent, the following 1305
shall be made available to counsel for the respondent: 1306

(a) All relevant documents, information, and evidence in 1307
the custody or control of the state or prosecutor; 1308

(b) All relevant documents, information, and evidence in 1309
the custody or control of the hospital in which the respondent 1310
currently is held, or in which the respondent has been held 1311
pursuant to this chapter; 1312

(c) All relevant documents, information, and evidence in 1313
the custody or control of any hospital, facility, or person not 1314
included in division (A) (1) (a) or (b) of this section. 1315

(2) The respondent has the right to attend the hearing and 1316
to be represented by counsel of the respondent's choice. The 1317
right to attend the hearing may be waived only by the respondent 1318
or counsel for the respondent after consultation with the 1319
respondent. 1320

(3) If the respondent is not represented by counsel, is 1321
absent from the hearing, and has not validly waived the right to 1322
counsel, the court shall appoint counsel immediately to 1323
represent the respondent at the hearing, reserving the right to 1324
tax costs of appointed counsel to the respondent, unless it is 1325
shown that the respondent is indigent. If the court appoints 1326
counsel, or if the court determines that the evidence relevant 1327
to the respondent's absence does not justify the absence, the 1328
court shall continue the case. 1329

(4) The respondent shall be informed that the respondent 1330
may retain counsel and have independent expert evaluation. If 1331
the respondent is unable to obtain an attorney, the respondent 1332
shall be represented by court-appointed counsel. If the 1333
respondent is indigent, court-appointed counsel and independent 1334
expert evaluation shall be provided as an expense under section 1335
5122.43 of the Revised Code. 1336

(5) The hearing shall be closed to the public, unless 1337
counsel for the respondent, with the permission of the 1338
respondent, requests that the hearing be open to the public. 1339

(6) If the hearing is closed to the public, the court, for 1340
good cause shown, may admit persons who have a legitimate 1341

interest in the proceedings. If the respondent, the respondent's 1342
counsel, or the designee of the director or of the chief 1343
clinical officer objects to the admission of any person, the 1344
court shall hear the objection and any opposing argument and 1345
shall rule upon the admission of the person to the hearing. 1346

(7) The affiant under section 5122.11 of the Revised Code 1347
shall be subject to subpoena by either party. 1348

(8) The court shall examine the sufficiency of all 1349
documents filed and shall inform the respondent, if present, and 1350
the respondent's counsel of the nature and content of the 1351
documents and the reason for which the respondent is being 1352
detained, or for which the respondent's placement is being 1353
sought. 1354

(9) The court shall receive only reliable, competent, and 1355
material evidence. 1356

(10) Unless proceedings are initiated pursuant to section 1357
5120.17 or 5139.08 of the Revised Code, an attorney that the 1358
board designates shall present the case demonstrating that the 1359
respondent is a mentally ill person subject to court order. The 1360
attorney shall offer evidence of the diagnosis, prognosis, 1361
record of treatment, if any, and less restrictive treatment 1362
plans, if any. In proceedings pursuant to section 5120.17 or 1363
5139.08 of the Revised Code, the attorney general shall 1364
designate an attorney who shall present the case demonstrating 1365
that the respondent is a mentally ill person subject to court 1366
order. The attorney shall offer evidence of the diagnosis, 1367
prognosis, record of treatment, if any, and less restrictive 1368
treatment plans, if any. 1369

(11) The respondent or the respondent's counsel has the 1370

right to subpoena witnesses and documents and to examine and 1371
cross-examine witnesses. 1372

(12) The respondent has the right, but shall not be 1373
compelled, to testify, and shall be so advised by the court. 1374

(13) On motion of the respondent or the respondent's 1375
counsel for good cause shown, or on the court's own motion, the 1376
court may order a continuance of the hearing. 1377

(14) If the respondent is represented by counsel and the 1378
respondent's counsel requests a transcript and record, or if the 1379
respondent is not represented by counsel, the court shall make 1380
and maintain a full transcript and record of the proceeding. If 1381
the respondent is indigent and the transcript and record is 1382
made, a copy shall be provided to the respondent upon request 1383
and be treated as an expense under section 5122.43 of the 1384
Revised Code. 1385

(15) To the extent not inconsistent with this chapter, the 1386
Rules of Civil Procedure are applicable. 1387

(B) Unless, upon completion of the hearing the court finds 1388
by clear and convincing evidence that the respondent is a 1389
mentally ill person subject to court order, it shall order the 1390
respondent's discharge immediately. 1391

(C) If, upon completion of the hearing, the court finds by 1392
clear and convincing evidence that the respondent is a mentally 1393
ill person subject to court order, the court shall order the 1394
respondent for a period not to exceed ninety days to any of the 1395
following: 1396

(1) A hospital operated by the department of mental health 1397
and addiction services if the respondent is committed pursuant 1398
to section 5139.08 of the Revised Code; 1399

(2) A nonpublic hospital;	1400
(3) The veterans' administration or other agency of the United States government;	1401 1402
(4) A board of alcohol, drug addiction, and mental health services or services provider the board designates;	1403 1404
(5) Receive private psychiatric or psychological care and treatment;	1405 1406
(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent. A jail or other local correctional facility is not a suitable facility.	1407 1408 1409 1410
(D) Any order made pursuant to division (C) (2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent and may include a requirement that a person or entity described in division (C) (2), (3), (5), or (6) of this section inform the board of alcohol, drug addiction, and mental health services or community mental health services provider the board designates about the progress of the respondent with the treatment plan.	1411 1412 1413 1414 1415 1416 1417 1418 1419
(E) In determining the entity or person to which the respondent is to be committed under division (C) of this section, the court shall consider the <u>all of the following:</u>	1420 1421 1422
<u>(1) The respondent's diagnosis, and prognosis, made by a psychiatrist, licensed clinical psychologist, clinical nurse specialist who is certified as a psychiatric-mental health clinical nurse specialist by the American nurses credentialing center, or certified nurse practitioner who is certified as a psychiatric-mental health nurse practitioner by the American</u>	1423 1424 1425 1426 1427 1428

nurses credentialing center; 1429

(2) The respondent's preferences of the respondent and 1430
the; 1431

(3) The respondent's projected treatment plan for the 1432
respondent and. 1433

The court shall order the implementation of the least 1434
restrictive alternative available and consistent with treatment 1435
goals. If the court determines that the least restrictive 1436
alternative available that is consistent with treatment goals is 1437
inpatient hospitalization, the court's order shall so state. 1438

(F) During the ninety-day period the entity or person 1439
shall examine and treat the respondent. If the respondent is 1440
receiving treatment in an outpatient setting, or receives 1441
treatment in an outpatient setting during a subsequent period of 1442
continued commitment under division (H) of this section, the 1443
entity or person to whom the respondent is committed shall 1444
determine the appropriate outpatient treatment for the 1445
respondent. If, at any time prior to the expiration of the 1446
ninety-day period, it is determined by the entity or person that 1447
the respondent's treatment needs could be equally well met in an 1448
available and appropriate less restrictive setting, both of the 1449
following apply: 1450

(1) The respondent shall be released from the care of the 1451
entity or person immediately and shall be referred to the court 1452
together with a report of the findings and recommendations of 1453
the entity or person; 1454

(2) The entity or person shall notify the respondent's 1455
counsel or the attorney designated by a board of alcohol, drug 1456
addiction, and mental health services or, if the respondent was 1457

committed to a board or a services provider designated by the 1458
board, it shall place the respondent in the least restrictive 1459
setting available consistent with treatment goals and notify the 1460
court and the respondent's counsel of the placement. 1461

The court shall dismiss the case or order placement in the 1462
least restrictive setting. 1463

(G) (1) Except as provided in division (G) (2) of this 1464
section, any person for whom proceedings for treatment have been 1465
commenced pursuant to section 5122.11 of the Revised Code, may 1466
apply at any time for voluntary admission or treatment to the 1467
entity or person to which the person was committed. Upon 1468
admission as a voluntary patient the chief clinical officer of 1469
the entity or the person immediately shall notify the court, the 1470
patient's counsel, and the attorney designated by the board, if 1471
the attorney has entered the proceedings, in writing of that 1472
fact, and, upon receipt of the notice, the court shall dismiss 1473
the case. 1474

(2) A person who is found incompetent to stand trial or 1475
not guilty by reason of insanity and who is committed pursuant 1476
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 1477
Revised Code shall not voluntarily commit the person pursuant to 1478
this section until after the final termination of the 1479
commitment, as described in division (J) of section 2945.401 of 1480
the Revised Code. 1481

(H) If, at the end of the first ninety-day period or any 1482
subsequent period of continued commitment, there has been no 1483
disposition of the case, either by discharge or voluntary 1484
admission or treatment, the entity or person shall discharge the 1485
patient immediately, unless at least ten days before the 1486
expiration of the period the attorney the board designates or 1487

the prosecutor files with the court an application for continued 1488
commitment. The application of the attorney or the prosecutor 1489
shall include a written report containing the diagnosis, 1490
prognosis, past treatment, a list of alternative treatment 1491
settings and plans, and identification of the treatment setting 1492
that is the least restrictive consistent with treatment needs. 1493
The attorney the board designates or the prosecutor shall file 1494
the written report at least three days prior to the full 1495
hearing. A copy of the application and written report shall be 1496
provided to the respondent's counsel immediately. 1497

The court shall hold a full hearing on applications for 1498
continued commitment at the expiration of the first ninety-day 1499
period and at least every two years after the expiration of the 1500
first ninety-day period. 1501

Hearings following any application for continued 1502
commitment are mandatory and may not be waived. 1503

For a respondent who is ordered to receive treatment in an 1504
outpatient setting, if at any time after the first ninety-day 1505
period the entity or person to whom the respondent was ordered 1506
determines that the respondent has demonstrated voluntary 1507
consent for treatment, that entity or person shall immediately 1508
notify the respondent, the respondent's counsel, the attorney 1509
designated by the board, and the court. The entity or person 1510
shall submit to the court a report of the findings and 1511
recommendations. The court may dismiss the case upon review of 1512
the facts. 1513

Upon request of a person who is involuntarily committed 1514
under this section, or the person's counsel, that is made more 1515
than one hundred eighty days after the person's last full 1516
hearing, mandatory or requested, the court shall hold a full 1517

hearing on the person's continued commitment. Upon the 1518
application of a person involuntarily committed under this 1519
section, supported by an affidavit of a psychiatrist or licensed 1520
clinical psychologist, alleging that the person no longer is a 1521
mentally ill person subject to court order, the court for good 1522
cause shown may hold a full hearing on the person's continued 1523
commitment prior to the expiration of one hundred eighty days 1524
after the person's last full hearing. Section 5122.12 of the 1525
Revised Code applies to all hearings on continued commitment. 1526

If the court, after a hearing for continued commitment 1527
finds by clear and convincing evidence that the respondent is a 1528
mentally ill person subject to court order, the court may order 1529
continued commitment at places or to persons specified in 1530
division (C) of this section. 1531

(I) Unless the admission is pursuant to section 5120.17 or 1532
5139.08 of the Revised Code, the chief clinical officer of the 1533
entity admitting a respondent pursuant to a judicial proceeding, 1534
within ten working days of the admission, shall make a report of 1535
the admission to the board of alcohol, drug addiction, and 1536
mental health services serving the respondent's county of 1537
residence. 1538

(J) A referee appointed by the court may make all orders 1539
that a judge may make under this section and sections 5122.11 1540
and 5122.141 of the Revised Code, except an order of contempt of 1541
court. The orders of a referee take effect immediately. Within 1542
fourteen days of the making of an order by a referee, a party 1543
may file written objections to the order with the court. The 1544
filed objections shall be considered a motion, shall be 1545
specific, and shall state their grounds with particularity. 1546
Within ten days of the filing of the objections, a judge of the 1547

court shall hold a hearing on the objections and may hear and 1548
consider any testimony or other evidence relating to the 1549
respondent's mental condition. At the conclusion of the hearing, 1550
the judge may ratify, rescind, or modify the referee's order. 1551

(K) An order of the court under division (C), (H), or (J) 1552
of this section is a final order. 1553

(L) Before a board, or a services provider the board 1554
designates, may place an unconsenting respondent in an inpatient 1555
setting from a less restrictive placement, the board or services 1556
provider shall do all of the following: 1557

(1) Determine that the respondent is in immediate need of 1558
treatment in an inpatient setting because the respondent 1559
represents a substantial risk of physical harm to the respondent 1560
or others if allowed to remain in a less restrictive setting; 1561

(2) On the day of placement in the inpatient setting or on 1562
the next court day, file with the court a motion for transfer to 1563
an inpatient setting or communicate to the court by telephone 1564
that the required motion has been mailed; 1565

(3) Ensure that every reasonable and appropriate effort is 1566
made to take the respondent to the inpatient setting in the 1567
least conspicuous manner possible; 1568

(4) Immediately notify the board's designated attorney and 1569
the respondent's attorney. 1570

At the respondent's request, the court shall hold a 1571
hearing on the motion and make a determination pursuant to 1572
division (E) of this section within five days of the placement. 1573

(M) Before a board, or a services provider the board 1574
designates, may move a respondent from one residential placement 1575

to another, the board or services provider shall consult with 1576
the respondent about the placement. If the respondent objects to 1577
the placement, the proposed placement and the need for it shall 1578
be reviewed by a qualified mental health professional who 1579
otherwise is not involved in the treatment of the respondent. 1580

(N) The entity or person to whom the respondent was 1581
ordered for treatment in an outpatient setting may submit a 1582
report to the court indicating that the respondent has either 1583
failed to comply with the treatment plan or begun to demonstrate 1584
signs of decompensation that may be grounds for hospitalization. 1585
On receipt of the report, the court shall promptly schedule a 1586
hearing to review the case. The court shall conduct the hearing 1587
in a manner consistent with this chapter and due process of law. 1588
The board shall receive notice of the hearing and the board and 1589
entity or person treating the respondent shall submit a report 1590
to the court with a plan for appropriate alternative treatment, 1591
if any, or recommend that the court discontinue the court- 1592
ordered treatment. The court shall consider available and 1593
appropriate alternative placements but shall not impose criminal 1594
sanctions that result in confinement in a jail or other local 1595
correctional facility based on the respondent's failure to 1596
comply with the treatment plan. The court may not order the 1597
respondent to a more restrictive placement unless the criteria 1598
specified in division (L) of this section are met and may not 1599
order the respondent to an inpatient setting unless the court 1600
determines by clear and convincing evidence presented by the 1601
board that the respondent meets the criteria specified in 1602
divisions (A) and (B) (1), (2), (3), or (4) of section 5122.01 of 1603
the Revised Code. 1604

Sec. 5804.11. (A) If upon petition the court finds that 1605
the settlor and all beneficiaries consent to the modification or 1606

termination of a noncharitable irrevocable trust, that all 1607
consents, including any given by representatives under Chapter 1608
5803. of the Revised Code, are valid, and that all parties 1609
giving consent are competent to do so, the court shall enter an 1610
order approving the modification or termination even if the 1611
modification or termination is inconsistent with a material 1612
purpose of the trust. An agent under a power of attorney may 1613
exercise a settlor's power to consent to a trust's modification 1614
or termination only to the extent expressly authorized by both 1615
the power of attorney and the terms of the trust. The settlor's 1616
guardian of the estate may exercise a settlor's power to consent 1617
to a trust's modification or termination with the approval of 1618
the court supervising the guardianship if an agent is not so 1619
authorized. The guardian of the settlor's person may exercise a 1620
settlor's power to consent to a trust's modification or 1621
termination with the approval of the court supervising the 1622
guardianship if an agent is not so authorized and a guardian of 1623
the estate has not been appointed. This division does not apply 1624
to a noncharitable irrevocable trust described in 42 U.S.C. 1625
1396p(d) (4) . 1626

(B) A noncharitable irrevocable trust may be terminated 1627
upon consent of all of the beneficiaries if the court concludes 1628
that continuance of the trust is not necessary to achieve any 1629
material purpose of the trust. A noncharitable irrevocable trust 1630
may be modified, but not to remove or replace the currently 1631
serving trustee, upon consent of all of the beneficiaries if the 1632
court concludes that modification is not inconsistent with a 1633
material purpose of the trust. A spendthrift provision in the 1634
terms of the trust may, but is not presumed to, constitute a 1635
material purpose of the trust. In determining what constitutes a 1636
material purpose of a trust, a court may but is not required to 1637

consider extrinsic evidence indicating a settlor's intent at the 1638
time the instrument was executed. 1639

(C) Upon termination of a trust under division (A) or (B) 1640
of this section, the trustee shall distribute the trust property 1641
as agreed by the beneficiaries. 1642

(D) If not all of the beneficiaries consent to a proposed 1643
modification or termination of the trust under division (A) or 1644
(B) of this section, the court may approve the modification or 1645
termination if the court is satisfied of both of the following: 1646

(1) That if all of the beneficiaries had consented, the 1647
trust could have been modified or terminated under this section; 1648

(2) That the interests of a beneficiary who does not 1649
consent will be adequately protected. 1650

Sec. 5805.06. (A) Whether or not the terms of a trust 1651
contain a spendthrift provision, all of the following apply: 1652

(1) During the lifetime of the settlor, the property of a 1653
revocable trust is subject to claims of the settlor's creditors. 1654

(2) Except to the extent that a trust is established 1655
pursuant to, or otherwise is wholly or partially governed by or 1656
subject to Chapter 5816. of the Revised Code, with respect to an 1657
irrevocable trust, a creditor or assignee of the settlor may 1658
reach the maximum amount that can be distributed to or for the 1659
settlor's benefit. If an irrevocable trust has more than one 1660
settlor, the amount distributable to or for a settlor's benefit 1661
that the creditor or assignee of a particular settlor may reach 1662
may not exceed that settlor's interest in the portion of the 1663
trust attributable to that settlor's contribution. The right of 1664
a creditor or assignee to reach a settlor's interest in an 1665
irrevocable trust shall be subject to Chapter 5816. of the 1666

Revised Code to the extent that that chapter applies to that trust. 1667
1668

(3) With respect to a trust described in 42 U.S.C. section 1396p(d)(4)(A) or (C), the court may limit the award of a settlor's creditor under division (A)(1) or (2) of this section to the relief that is appropriate under the circumstances, considering among any other factors determined appropriate by the court, the supplemental needs of the beneficiary. 1669
1670
1671
1672
1673
1674

(B) For purposes of this section, all of the following apply: 1675
1676

(1) The holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power during the period the power may be exercised. 1677
1678
1679
1680

~~(2) Upon the lapse, release, or waiver of the power of withdrawal, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greatest of the following amounts:~~ 1681
1682
1683
1684
1685

~~(a) The amount specified in section 2041(b)(2) or 2514(c) of the Internal Revenue Code;~~ 1686
1687

~~(b) If the donor of the property subject to the holder's power of withdrawal is not married at the time of the transfer of the property to the trust, the amount specified in section 2503(b) of the Internal Revenue Code;~~ 1688
1689
1690
1691

~~(c) If the donor of the property subject to the holder's power of withdrawal is married at the time of the transfer of the property to the trust, twice the amount specified in section 2503(b) of the Internal Revenue Code.~~ 1692
1693
1694
1695

~~(3)~~—None of the following shall be considered an amount 1696
that can be distributed to or for the benefit of the settlor: 1697

(a) Trust property that could be, but has not yet been, 1698
distributed to or for the benefit of the settlor only as a 1699
result of the exercise of a power of appointment held in a 1700
nonfiduciary capacity by any person other than the settlor; 1701

(b) Trust property that could be, but has not yet been, 1702
distributed to or for the benefit of the settlor of a trust 1703
pursuant to the power of the trustee to make distributions or 1704
pursuant to the power of another in a fiduciary capacity to 1705
direct distributions, if and to the extent that the 1706
distributions could be made from trust property the value of 1707
which was included in the gross estate of the settlor's spouse 1708
for federal estate tax purposes under section 2041 or 2044 of 1709
the Internal Revenue Code or that was treated as a transfer by 1710
the settlor's spouse under section 2514 or 2519 of the Internal 1711
Revenue Code; 1712

(c) Trust property that, pursuant to the exercise of a 1713
discretionary power by a person other than the settlor, could be 1714
paid to a taxing authority or to reimburse the settlor for any 1715
income tax on trust income or principal that is payable by the 1716
settlor under the law imposing the tax. 1717

Sec. 5816.02. As used in this chapter, unless the context 1718
otherwise requires: 1719

(A) (1) "Advisor" means a person to whom both of the 1720
following apply: 1721

(a) The person satisfies the eligibility criteria 1722
specified in division (A) of section 5816.11 of the Revised 1723
Code. 1724

(b) The person is given the authority by the terms of a	1725
legacy trust to remove or appoint one or more trustees of the	1726
trust or to direct, consent to, or disapprove a trustee's actual	1727
or proposed investment, distribution, or other decisions.	1728
(2) Any person to whom division (A) (1) of this section	1729
applies is considered an advisor even if that person is	1730
denominated by another title, such as protector.	1731
(B) "Asset" means property of a transferor but does not	1732
include any of the following:	1733
(1) Property to the extent it is encumbered by a valid	1734
lien;	1735
(2) Property to the extent it is exempt at the time of a	1736
qualified disposition under any applicable nonbankruptcy law,	1737
including, but not limited to, section 2329.66 of the Revised	1738
Code;	1739
(3) Property held in the form of a tenancy by the	1740
entireties to the extent that, under the law governing the	1741
entireties estate at the time of a qualified disposition, it is	1742
not subject to process by a creditor holding a claim against	1743
only one tenant;	1744
(4) Any property transferred from a nonlegacy trust to a	1745
legacy trust to the extent that the property would not be	1746
subject to attachment under the applicable nonbankruptcy law	1747
governing that nonlegacy trust.	1748
(C) "Bankruptcy Code" means the United States Bankruptcy	1749
Code, 11 U.S.C. Chapter 11, as amended.	1750
(D) "Beneficiary" has the same meaning as in section	1751
5801.01 of the Revised Code.	1752

(E) "Claim" means a right to payment, whether or not the right is reduced to judgment or is liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(F) "Creditor" means a person who has a claim against a transferor and any transferee or assignee of, or successor to, that claim.

(G) "Debt" means a liability on a claim.

(H) "Disposition" means a direct or indirect transfer, conveyance, or assignment of property, including, but not limited to, a partial, contingent, undivided, or co-ownership interest in property. "Disposition" includes the exercise of a general power so as to cause a transfer of property to a trustee or trustees but does not include any of the following:

(1) The release or relinquishment of an interest in property that, until the release or relinquishment, was the subject of a qualified disposition;

(2) The exercise of a limited power so as to cause a transfer of property to a trustee or trustees;

(3) A disclaimer of an interest in a trust, bequest, devise, or inheritance.

(I) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended.

(J) "Investment decision" means any participation in any decision regarding the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership of or rights in investments.

(K) (1) "Legacy trust" means a trust evidenced by a written

trust instrument to which all of the following apply:	1781
(a) The trust has, names, or appoints at least one	1782
qualified trustee for or in connection with the property that is	1783
the subject of a qualified disposition.	1784
(b) The trust expressly incorporates the laws of this	1785
state to wholly or partially govern its validity, construction,	1786
and administration.	1787
(c) The trust expressly states that it is irrevocable.	1788
(d) The trust has a spendthrift provision applicable to	1789
the interests of any beneficiary in the trust property,	1790
including any interests of a transferor in the trust property.	1791
(2) A trust that satisfies the criteria specified in	1792
division (K)(1) of this section is considered a legacy trust	1793
even if the trust instrument also allows for one or more	1794
nonqualified trustees and regardless of the language used to	1795
satisfy those criteria.	1796
(L) "Lien" has the same meaning as in section 1336.01 of	1797
the Revised Code.	1798
(M) "Nonlegacy trust" means any trust other than a legacy	1799
trust.	1800
(N) "Nonqualified trustee" means any trustee other than a	1801
qualified trustee.	1802
(O) "Person" has the same meaning as in section 5801.01 of	1803
the Revised Code.	1804
(P) "Property" has the same meaning as in section 5801.01	1805
of the Revised Code.	1806
(Q) "Qualified affidavit" means an affidavit that meets	1807

the requirements of section 5816.06 of the Revised Code. 1808

(R) "Qualified disposition" means a disposition by or from 1809
a transferor to any trustee of a trust that is, was, or becomes 1810
a legacy trust. 1811

(S) "Qualified trustee" means a person who is not a 1812
transferor and to whom both of the following apply: 1813

(1) (a) The person, if a natural person, is a resident of 1814
this state. 1815

(b) The person, if not a natural person, is authorized by 1816
the law of this state or by a court of competent jurisdiction of 1817
this state to act as a trustee and ~~whose~~ either of the following
applies: 1818
1819

(i) The activities of that person are subject to 1820
supervision by the Ohio superintendent of ~~banks~~ financial
institutions, the federal deposit insurance corporation, the 1821
comptroller of the currency, or the office of thrift supervision 1822
or a successor of any of them. 1823
1824

(ii) That person is a "family trust company," as defined 1825
in section 1112.01 of the Revised Code, and that family trust 1826
company may be licensed or unlicensed for purposes of Chapter 1827
1112. of the Revised Code, provided that all of the following 1828
also apply regardless of the family trust company's licensing 1829
status: 1830

(I) The family trust company shall maintain an office in 1831
this state, on either an exclusive basis or on a shared basis 1832
with one or more other persons. 1833

(II) The family trust company shall open and maintain at 1834
least one bank or brokerage account in this state. 1835

(III) The family trust company shall maintain in this 1836
state, on an exclusive or nonexclusive basis, electronic or 1837
physical records for the legacy trust. 1838

(IV) The family trust company shall satisfy all of the 1839
requirements imposed by divisions (B), (C), (D), and (E) (1) of 1840
section 1112.14 of the Revised Code. 1841

(V) No beneficiary of a legacy trust, when acting for or 1842
on behalf of a family trust company, or when acting as an 1843
officer, manager, director, employee, or other agent or 1844
representative of a family trust company, may have any vote or 1845
authority regarding any decision to make or withhold any 1846
distribution from such legacy trust to or for the benefit of 1847
that beneficiary. 1848

Nothing in division (S) (1) (b) (ii) of this section shall 1849
prohibit a beneficiary from exercising any rights, powers, 1850
privileges, or authority granted to that beneficiary by or in 1851
any trust instrument governing a legacy trust. 1852

(2) The person maintains or arranges for custody in this 1853
state of some or all of the property that is the subject of the 1854
qualified disposition, maintains electronic or physical records 1855
for the legacy trust on an exclusive or nonexclusive basis, 1856
prepares or arranges for the preparation of required income tax 1857
returns for the legacy trust, or otherwise materially 1858
participates in the administration of the legacy trust. 1859

(T) "Spendthrift provision" has the same meaning as in 1860
section 5801.01 of the Revised Code. 1861

(U) "Spouse" and "former spouse" means only the person to 1862
whom a transferor was married on or before a qualified 1863
disposition is made. 1864

(V) "Transferor" means a person who directly or indirectly makes a disposition.

(W) "Valid lien" has the same meaning as in section 1336.01 of the Revised Code.

Sec. 5816.05. A legacy trust may allow or provide for any or all of the following rights, powers, interests, or provisions, none of which grants, or is considered to be, either alone or in any combination, a right or power to revoke a trust or to voluntarily or involuntarily transfer an interest in that trust:

(A) A provision that, upon the happening of a defined event or a stated contingency, results in the termination of a transferor's right to mandatory income or principal;

(B) The power of a transferor to veto a distribution from the trust;

(C) A power of appointment, other than a power to appoint to a transferor, a creditor of the transferor, the estate of the transferor, or a creditor of the transferor's estate, that is exercisable by will or by other written instrument of a transferor effective upon the death of the transferor or during the lifetime of the transferor;

(D) The right of a transferor to receive trust income as set forth in the trust instrument.

(E) Both of the following:

(1) A transferor's potential or actual receipt of income or principal from a charitable remainder unitrust or charitable remainder annuity trust as those terms are defined in section 664 of the Internal Revenue Code;

(2) The transferor's right, at any time and from time to 1893
time by written instrument delivered to the trustee, to release 1894
the transferor's retained interest in that unitrust or annuity 1895
trust, in whole or in part, in favor of one or more charitable 1896
organizations that have a succeeding beneficial interest in that 1897
unitrust or annuity trust; 1898

(F) The power of a transferor to consume, invade, or 1899
appropriate property of the trust, but only if limited in each 1900
calendar year to five per cent of the value of the trust 1901
principal at the time of the exercise of the power; 1902

(G) A transferor's potential or actual receipt or use of 1903
principal or income of the trust if the potential or actual 1904
receipt or use is or would be the result of any of the following 1905
that applies with respect to one or more of the qualified 1906
trustees: 1907

(1) A qualified trustee's acting in the trustee's 1908
discretion. For purposes of division (G)(1) of this section, a 1909
qualified trustee shall have discretion with respect to the 1910
distribution or use of principal or income unless the discretion 1911
is expressly denied to the trustee by the terms of the trust 1912
instrument. 1913

(2) A qualified trustee's acting pursuant to a standard in 1914
the trust instrument that governs the distribution or use of 1915
principal or income; 1916

(3) A qualified trustee's acting at the direction of an 1917
advisor who is acting in the advisor's discretion or pursuant to 1918
a standard in the trust instrument that governs the distribution 1919
or use of principal or income. If an advisor is authorized to 1920
direct that distribution or use, the advisor's authority shall 1921

be discretionary unless otherwise expressly stated in the trust instrument. 1922
1923

(H) The right of a transferor to remove any advisor and 1924
appoint a new advisor who satisfies the eligibility criteria set 1925
forth in division (A) of section 5816.11 of the Revised Code; 1926

(I) The right of a transferor to remove any trustee and 1927
appoint a new trustee; 1928

(J) A transferor's potential or actual use of real 1929
property or tangible personal property, including, but not 1930
limited to, property held under a qualified personal residence 1931
trust as described in section 2702(c) of the Internal Revenue 1932
Code and regulations promulgated under that section, or a 1933
transferor's possession and enjoyment of a qualified interest as 1934
defined in section 2702(b) of the Internal Revenue Code; 1935

(K) Any provision requiring or permitting the potential or 1936
actual use of trust income or principal to pay, in whole or in 1937
part, income taxes due on the income of the trust, including, 1938
but not limited to, any provision permitting that use in the 1939
discretion of any one or more of the qualified trustees acting 1940
in the qualified trustee's discretion or at the direction of an 1941
advisor who is acting in the advisor's discretion; 1942

(L) The ability of a qualified trustee, whether pursuant 1943
to the qualified trustee's discretion or the terms of the legacy 1944
trust instrument or at the direction of an advisor, to pay after 1945
the death of a transferor all or any part of the debts of the 1946
transferor outstanding on or before the transferor's death, the 1947
expenses of administering the transferor's estate, or any 1948
estate, gift, generation skipping transfer, or inheritance tax; 1949

(M) Any provision that pours back after the death of a 1950

transferor all or part of the trust property to the transferor's estate or any trust; 1951
1952

(N) A power held by a transferor allowing the transferor, while acting in a nonfiduciary capacity, to substitute property of equivalent value for any property that is part of the principal of the legacy trust; 1953
1954
1955
1956

(O) Any other rights, powers, interests, or provisions permitted or allowed by any other section of this chapter. 1957
1958

Sec. 5816.06. (A) Except as otherwise provided in this section, a transferor shall sign a qualified affidavit before or substantially contemporaneously with making a qualified disposition. 1959
1960
1961
1962

(B) A qualified affidavit shall be notarized and shall contain all of the following statements under oath: 1963
1964

(1) The property being transferred to the trust was not derived from unlawful activities. 1965
1966

(2) The transferor has full right, title, and authority to transfer the property to the legacy trust. 1967
1968

(3) The transferor will not be rendered insolvent immediately after the transfer of the property to the legacy trust. 1969
1970
1971

(4) The transferor does not intend to defraud any creditor by transferring the property to the legacy trust. 1972
1973

(5) There are no pending or threatened court actions against the transferor, except for any court action identified by the affidavit or an attachment to the affidavit. 1974
1975
1976

(6) The transferor is not involved in any administrative 1977

proceeding, except for any proceeding identified by the affidavit or an attachment to the affidavit. 1978
1979

(7) The transferor does not contemplate at the time of the transfer the filing for relief under the Bankruptcy Code. 1980
1981

(C) A qualified affidavit is considered defective if it materially fails to meet the requirements set forth in division (B) of this section, but a qualified affidavit is not considered defective due to any one or more of the following: 1982
1983
1984
1985

(1) Any nonsubstantive variances from the language set forth in division (B) of this section; 1986
1987

(2) Any statements or representations in addition to those set forth in division (B) of this section if the statements or representations do not materially contradict the statements or representations required by that division; 1988
1989
1990
1991

(3) Any technical errors in the form, substance, or method of administering an oath if those errors were not the fault of the affiant, and the affiant reasonably relied upon another person to prepare or administer the oath. 1992
1993
1994
1995

(D) (1) A qualified affidavit is not required from a transferor who is not a beneficiary of the legacy trust that receives the disposition. 1996
1997
1998

(2) A subsequent qualified affidavit is not required in connection with any qualified disposition made after the execution of an earlier qualified affidavit if that disposition is a part of, is required by, or is the direct result of, a prior qualified disposition that was made in connection with that earlier qualified affidavit. 1999
2000
2001
2002
2003
2004

(E) If a qualified affidavit is required by this section 2005

and a transferor fails to timely sign a qualified affidavit or 2006
signs a defective qualified affidavit, then, subject to the 2007
normal rules of evidence, that failure or defect may be 2008
considered as evidence in any proceeding commenced pursuant to 2009
section 5816.07 of the Revised Code, but the legacy trust or the 2010
validity of any attempted qualified disposition shall not be 2011
affected in any other way due to that failure or defect. 2012

Sec. 5816.09. Any successor or replacement trustees of a 2013
legacy trust shall be determined or selected in the following 2014
manners: 2015

(A) (1) Division (A) (2) of this section applies if in any 2016
action involving a legacy trust or any trustee of the legacy 2017
trust a court ~~takes an action~~ enters or issues any order in 2018
which or by which the court declines to apply the law of this 2019
state in determining any of the following matters: 2020

(a) The validity, construction, or administration of the 2021
trust; 2022

(b) The effect of any term or condition of the trust, 2023
including, but not limited to, a spendthrift provision; 2024

(c) The rights and remedies of any creditor or other 2025
suitor in connection with a qualified disposition. 2026

(2) Immediately upon the court's ~~action under entry or~~ 2027
issuance of an order referred to in division (A) (1) of this 2028
section, and without the need for any other order of any court, 2029
any qualified trustee who is a party to that action shall cease 2030
in all respects to be a trustee of the legacy trust, and the 2031
position of trustee shall be occupied in accordance with the 2032
terms of the trust instrument that governed the legacy trust 2033
immediately before that cessation, or, if the terms of the trust 2034

instrument do not provide for another trustee and the trust 2035
would otherwise be without a trustee, any court of this state, 2036
upon the application of any beneficiary of the legacy trust, 2037
shall appoint a successor qualified trustee upon the terms and 2038
conditions that it determines to be consistent with the purposes 2039
of the trust and this chapter. Upon a qualified trustee ceasing 2040
to be a trustee pursuant to division (A) (2) of this section, 2041
that qualified trustee shall have no power or authority other 2042
than to convey trust property to any other trustee that is 2043
appointed, installed, or serving in accordance with that 2044
division. 2045

(3) For purposes of division (A) of this section, ~~"court":~~ 2046

(a) "Court" includes a judicial tribunal, an 2047
administrative tribunal, or other adjudicative body or panel. 2048

(b) "Order" includes any order, writ, judgment, entry, 2049
edict, mandate, directive, instruction, or decree issued or 2050
entered by any court. 2051

(B) In all cases other than the situation described in 2052
division (A) of this section, both of the following apply: 2053

(1) If a legacy trust ceases to have at least one 2054
qualified trustee, the vacancy in the qualified trusteeship 2055
shall be filled pursuant to section 5807.04 of the Revised Code 2056
except to the extent that the legacy trust expressly provides 2057
otherwise. 2058

(2) If a legacy trust ceases to have at least one trustee, 2059
the vacancy in the trusteeship shall be filled pursuant to 2060
section 5807.04 of the Revised Code, and the successor trustee 2061
shall be a qualified trustee unless the legacy trust instrument 2062
expressly provides otherwise. 2063

Sec. 5816.10. (A) In the event of any conflict between any 2064
provision of this chapter and any provision of Chapter 1336. of 2065
the Revised Code, including, but not limited to, any similar 2066
provision of law adopted, promulgated, or enacted by a 2067
jurisdiction other than this state, or any other provision of 2068
law similar to any provision of Chapter 1336. of the Revised 2069
Code, the provision of this chapter shall control and prevail to 2070
the maximum extent permitted by the Ohio Constitution and the 2071
United States Constitution. When determining whether a provision 2072
of law is similar to any provision of Chapter 1336. of the 2073
Revised Code, a court shall be liberal in finding that such 2074
similarity exists. 2075

(B) A statement in a trust instrument stating that it 2076
"shall be governed by the laws of Ohio" or other statement to 2077
similar effect or of similar import is considered to expressly 2078
incorporate the laws of this state to govern the validity, 2079
construction, and administration of that trust instrument and to 2080
satisfy division (K) (1) (b) of section 5816.02 of the Revised 2081
Code. 2082

(C) A disposition by a nonqualified trustee to a qualified 2083
trustee shall not be treated as other than a qualified 2084
disposition solely because the nonqualified trustee is a trustee 2085
of a nonlegacy trust. 2086

(D) A disposition to any nonqualified trustee of a legacy 2087
trust shall be treated as a qualified disposition if at the time 2088
of the disposition any of the following applies: 2089

(1) There is at least one qualified trustee serving 2090
pursuant to the terms of that legacy trust. 2091

(2) There is no qualified trustee serving but the 2092

circumstances require the appointment or installation of a 2093
qualified trustee pursuant to division (A) (2) of section 5816.09 2094
of the Revised Code. 2095

(3) There is no qualified trustee serving but within one 2096
hundred eighty days after the date of disposition a qualified 2097
trustee fills the vacancy in the qualified trusteeship or an 2098
application to appoint a qualified trustee is filed pursuant to 2099
division (B) of section 5816.09 of the Revised Code. 2100

(E) If a disposition is made by a trustee of a nonlegacy 2101
trust to a trustee of a legacy trust, both of the following 2102
apply: 2103

(1) Except to the extent expressly stated otherwise by the 2104
terms of that disposition, the disposition shall be considered a 2105
qualified disposition for the benefit of all of the persons who 2106
are the beneficiaries of both the nonlegacy trust and the legacy 2107
trust. 2108

(2) The date of the disposition to the legacy trust shall 2109
be considered to be the date on which the property that was part 2110
of the nonlegacy trust was first continuously subject to any law 2111
of a jurisdiction other than this state that is similar to this 2112
chapter. ~~A court shall liberally construe and apply division (E)~~ 2113
~~(2) of this section~~ When applying division (E) (2) of this 2114
section, a court shall be liberal in finding that such 2115
continuity and similarity exist. 2116

(F) A legacy trust may contain any terms or conditions 2117
that provide for changes in or to the place of administration, 2118
situs, governing law, trustees or advisors, or the terms or 2119
conditions of the legacy trust or for other changes permitted by 2120
law. 2121

(G) Any valid lien attaching to property before a 2122
disposition of that property to a trustee of a legacy trust 2123
shall survive the disposition, and the trustee shall take title 2124
to the property subject to the valid lien and subject to any 2125
agreements that created or perfected the valid lien. Nothing in 2126
this chapter shall be construed to authorize any disposition 2127
that is prohibited by the terms of any agreements, notes, 2128
guaranties, mortgages, indentures, instruments, undertakings, or 2129
other documents. In the event of any conflict between this 2130
division and any other provision of this chapter, this division 2131
shall control. 2132

(H) To the maximum extent permitted by the Ohio 2133
Constitution and the United States Constitution, the courts of 2134
this state shall exercise jurisdiction over any legacy trust, any 2135
legacy trust matter, or any qualified disposition and shall 2136
adjudicate any case or controversy brought before them 2137
regarding, arising out of, or related to, any legacy trust, any 2138
legacy trust matter, or any qualified disposition if that case 2139
or controversy is otherwise within the subject matter 2140
jurisdiction of the court. Subject to the Ohio Constitution and 2141
the United States Constitution, no court of this state shall 2142
dismiss or otherwise decline to adjudicate any case or 2143
controversy described in this division on the ground that a 2144
court of another jurisdiction has acquired or may acquire proper 2145
jurisdiction over, or may provide proper venue for, that case or 2146
controversy or the parties to the case or controversy. Nothing 2147
in this division shall be construed to do either of the 2148
following: 2149

(1) Prohibit a transfer or other reassignment of any case 2150
or controversy from one court of this state to another court of 2151
this state; 2152

(2) Expand or limit the subject matter jurisdiction of any court of this state.

(I)(1) If any disposition is made by a trustee of a legacy trust, referred to in division (I) of this section as the "first legacy trust," to a trustee of a second legacy trust, referred to in division (I) of this section as the "second legacy trust," whether pursuant to section 5808.18 of the Revised Code or any other applicable law, then all of the following apply to any property involved in such disposition:

(a) Except to the extent expressly stated otherwise by the terms of that disposition, the disposition shall be considered a qualified disposition for the benefit of all persons who are the beneficiaries of both the first legacy trust and the second legacy trust.

(b) An item of property shall be treated as having been transferred to a trustee of the second legacy trust on the earlier of any of the following:

(i) The date of the original qualified disposition of the item to a trustee of the first legacy trust;

(ii) If, before being held by the trustee of the first legacy trust, the item previously was held by a trustee of a predecessor legacy trust, or by one or more trustees of a consecutive and uninterrupted series of predecessor legacy trusts, then the date of the original qualified disposition to the first trustee to hold that item as part of any such predecessor legacy trust;

(iii) If, before being held by the trustee of the first legacy trust, that item was held by a trustee of a nonlegacy trust referred to in division (E)(2) of this section, then the

date determined pursuant to that division; 2182

(iv) The earliest date determined by any combination of 2183
divisions (I) (1) (b) (i) to (iii) of this section. 2184

(2) For purposes of division (I) (1) (b) of this section, 2185
any reference to an item of property shall include any proceeds 2186
of or substitutes for that item. 2187

(3) Notwithstanding division (S) of section 5816.02 of the 2188
Revised Code, a qualified trustee of the first legacy trust may 2189
serve as a qualified trustee of the second legacy trust. 2190

(4) The dispositions covered by division (I) of this 2191
section include, but are not limited to, any disposition that is 2192
made by a trustee of the first legacy trust acting pursuant to a 2193
direction issued by a person having the power to direct a 2194
distribution of trust property pursuant to the trust instrument 2195
governing the first legacy trust, including, but not limited to, 2196
a power to direct as provided in division (G) of section 5808.18 2197
of the Revised Code. 2198

(J) Any reference in this chapter to an "action" or a 2199
"proceeding" shall be broadly construed to encompass any suit or 2200
proceeding in any jurisdiction or before any judicial tribunal, 2201
administrative tribunal, or other adjudicative body or panel. 2202

(K) This chapter and its provisions reflect and embody the 2203
strong public policy of this state. 2204

Sec. 5816.14. This chapter applies to qualified 2205
dispositions made on or after ~~the effective date of this section~~ 2206
March 27, 2013, except that division (S) (1) (b) (ii) of section 2207
5816.02 of the Revised Code applies to any legacy trust settled 2208
or administered on or after the effective date of this 2209
amendment. 2210

Section 2. That existing sections 1721.21, 1901.123, 2211
1907.143, 2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2212
2108.34, 2111.10, 2111.50, 2133.07, 2701.10, 2717.01, 5122.15, 2213
5804.11, 5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10, 2214
and 5816.14 of the Revised Code are hereby repealed. 2215

Section 3. That section 2133.16 of the Revised Code is 2216
hereby repealed. 2217