

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 491

Representatives Ray, Baker

**Cosponsors: Representatives Grim, Troy, Brennan, McNally, Russo, Rogers,
Synenberg, Lett**

To amend sections 2109.21, 2111.01, 2111.011, 1
2111.02, 2111.021, 2111.022, 2111.03, 2111.031, 2
2111.04, 2111.041, 2111.05, 2111.06, 2111.08, 3
2111.091, 2111.12, 2111.13, 2111.131, 2111.18, 4
2111.181, 2111.19, 2111.20, 2111.23, 2111.26, 5
2111.33, 2111.37, 2111.38, 2111.39, 2111.44, 6
2111.46, 2111.47, 2111.49, 2111.50, 2112.01, and 7
2746.06; to enact section 2111.023; and to 8
repeal sections 2111.07, 2111.15, 2111.34, 9
2111.35, 2111.36, and 2111.45 of the Revised 10
Code to make changes to Guardianship Law. 11

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

Section 1. That sections 2109.21, 2111.01, 2111.011, 12
2111.02, 2111.021, 2111.022, 2111.03, 2111.031, 2111.04, 13
2111.041, 2111.05, 2111.06, 2111.08, 2111.091, 2111.12, 2111.13, 14
2111.131, 2111.18, 2111.181, 2111.19, 2111.20, 2111.23, 2111.26, 15
2111.33, 2111.37, 2111.38, 2111.39, 2111.44, 2111.46, 2111.47, 16
2111.49, 2111.50, 2112.01, and 2746.06 be amended and section 17
2111.023 of the Revised Code be enacted to read as follows: 18

Sec. 2109.21. (A) An administrator, special administrator, 19

administrator de bonis non, or administrator with the will 20
annexed shall be a resident of this state and shall be removed 21
on proof that the administrator is no longer a resident of this 22
state. 23

(B) (1) (a) To qualify for appointment as executor or 24
trustee, an executor or a trustee named in a will or nominated 25
in accordance with any power of nomination conferred in a will, 26
may be a resident of this state or, as provided in this 27
division, a nonresident of this state. To qualify for 28
appointment, a nonresident executor or trustee named in, or 29
nominated pursuant to, a will shall be one of the following: 30

(i) An individual who is related to the testator by 31
consanguinity or affinity; 32

(ii) A private trust company or family trust company 33
organized under the laws of any state; 34

(iii) A person who resides in a state that has statutes or 35
rules that authorize the appointment of a nonresident person who 36
is not related to the testator by consanguinity or affinity, as 37
an executor or trustee when named in, or nominated pursuant to, 38
a will. 39

(b) No executor or trustee under division (B) (1) (a) of 40
this section shall be refused appointment or removed solely 41
because the executor or trustee is not a resident of this state. 42

(c) The court may require that a nonresident executor or 43
trustee named in, or nominated pursuant to, a will assure that 44
all of the assets of the decedent that are in the county at the 45
time of the death of the decedent will remain in the county 46
until distribution or until the court determines that the assets 47
may be removed from the county. 48

(d) The court may require a nonresident private trust 49
company or family trust company appointed under division (B)(1) 50
(a)(ii) of this section to appoint a resident agent to accept 51
service of process, notices, and other documents. 52

(2)(a) In accordance with this division and section 53
2129.08 of the Revised Code, the court shall appoint as an 54
ancillary administrator a person who is named in the will of a 55
nonresident decedent, or who is nominated in accordance with any 56
power of nomination conferred in the will of a nonresident 57
decedent, as a general executor of the decedent's estate or as 58
executor of the portion of the decedent's estate located in this 59
state, whether or not the person so named or nominated is a 60
resident of this state. 61

To qualify for appointment as an ancillary administrator, 62
a person who is not a resident of this state and who is named or 63
nominated as described in this division, shall be one of the 64
following: 65

(i) An individual who is related to the testator by 66
consanguinity or affinity; 67

(ii) A private trust company or family trust company 68
organized under the laws of any state; 69

(iii) A person who resides in a state that has statutes or 70
rules that authorize the appointment of a nonresident of that 71
state who is not related to the testator by consanguinity or 72
affinity, as an ancillary administrator when the nonresident is 73
named in a will or nominated in accordance with any power of 74
nomination conferred in a will. 75

(b) If a person who is not a resident of this state and 76
who is named or nominated as described in division (B)(2)(a) of 77

this section so qualifies for appointment as an ancillary administrator and if the provisions of section 2129.08 of the Revised Code are satisfied, the court shall not refuse to appoint the person, and shall not remove the person, as ancillary administrator solely because the person is not a resident of this state.

(c) The court may require that an ancillary administrator who is not a resident of this state and who is named or nominated as described in division (B) (2) (a) of this section, assure that all of the assets of the decedent that are in the county at the time of the death of the decedent will remain in the county until distribution or until the court determines that the assets may be removed from the county.

(d) The court may require a nonresident private trust company or family trust company appointed under division (B) (2) (a) (ii) of this section to appoint a resident agent to accept service of process, notices, and other documents.

(C) (1) A guardian of the estate shall be a resident of this state, except that the court may appoint a nonresident of this state as a guardian of the estate if any of the following applies:

(a) The nonresident is named in a will by a parent of a minor.

(b) The nonresident is selected by a minor over the age of ~~fourteen~~ twelve years as provided by section 2111.12 of the Revised Code.

(c) The nonresident is nominated in or pursuant to a durable power of attorney under section 1337.24 of the Revised Code or a writing as described in division (A) of section

2111.121 of the Revised Code. 107

(2) A guardian of the estate, other than a guardian named 108
in a will by a parent of a minor, selected by a minor over the 109
age of ~~fourteen~~twelve years, or nominated in or pursuant to a 110
durable power of attorney or writing described in division (C) 111
(1) (c) of this section, may be removed on proof that the 112
guardian of the estate is no longer a resident of this state. 113

(3) The court may appoint a resident or nonresident of 114
this state as a guardian of the person. 115

(D) Any fiduciary, whose residence qualifications are not 116
defined in this section, shall be a resident of this state, and 117
shall be removed on proof that the fiduciary is no longer a 118
resident of this state. 119

(E) Any fiduciary, in order to assist in the carrying out 120
of the fiduciary's fiduciary duties, may employ agents who are 121
not residents of the county or of this state. 122

(F) Every fiduciary shall sign and file with the court a 123
statement of permanent address and shall notify the court of any 124
change of address. A court may remove a fiduciary if the 125
fiduciary fails to comply with this division. 126

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 127
Revised Code: 128

(A) "Guardian," other than a guardian under sections 129
5905.01 to 5905.19 of the Revised Code, means any person, 130
association, or corporation appointed by the probate court to 131
have the care and management of the person, the estate, or both 132
of a minor or an incompetent ~~or minor~~ adult. When applicable, 133
"guardian" includes, but is not limited to, a limited guardian, 134
an interim guardian, a standby guardian, and an emergency 135

guardian appointed pursuant to division (B) of section 2111.02 136
of the Revised Code. "Guardian" also includes an agency under 137
contract with the department of developmental disabilities for 138
the provision of protective service under sections 5123.55 to 139
5123.59 of the Revised Code when appointed by the probate court 140
to have the care and management of the person of an incompetent_ 141
adult. 142

(B) "Ward" means any ~~person~~ minor or incompetent adult for 143
whom a guardian is acting or for whom the probate court is 144
acting pursuant to section 2111.50 of the Revised Code. 145

(C) "Resident guardian" means a guardian appointed by a 146
probate court to have the care and management of property in 147
this state that belongs to a nonresident ward. 148

(D) ~~"Incompetent"~~ "Incompetent adult" or "incompetent" 149
means either of the following: 150

(1) Any ~~person~~ adult who is so mentally impaired, as a 151
result of a mental or physical illness or disability, as a 152
result of intellectual disability, or as a result of chronic 153
substance abuse, that the person is incapable of taking proper 154
care of the person's self or property or fails to provide for 155
the person's family or other persons for whom the person is 156
charged by law to provide; 157

(2) Any ~~person~~ adult confined to a correctional 158
institution within this state. 159

(E) "Next of kin" means any person who would be entitled 160
to inherit from a ward under Chapter 2105. of the Revised Code 161
if the ward dies intestate. 162

(F) "Conservator" means a conservator appointed by the 163
probate court in an order of conservatorship issued pursuant to 164

section 2111.021 of the Revised Code. 165

(G) "Parent" means a natural parent or adoptive parent of 166
a minor child whose parental rights and responsibilities have 167
not been terminated by a ~~juvenile court or another court~~ of 168
competent jurisdiction. 169

(H) "Financial harm" means impairment of an individual's 170
financial assets by ~~unlawfully~~ obtaining or exerting control 171
over the individual's real or personal property in any of the 172
following ways: 173

(1) Without the consent of the individual or the person 174
authorized to give consent on the individual's behalf; 175

(2) Beyond the scope of the express or implied consent of 176
the individual or the person authorized to give consent on the 177
individual's behalf; 178

(3) By deception; 179

(4) By threat; 180

(5) By intimidation; 181

(6) By fraud; 182

(7) By undue influence. 183

(I) "Limited guardian" means a guardian appointed with 184
specific limited powers, including, but not limited to, 185
overseeing the care and management of medical decisions, mental 186
health, placement, visitation, or other specified limited 187
powers, as outlined in the letters of guardianship. 188

(J) "Standby guardian" means a person nominated in a 189
writing to be a guardian of the person, the estate, or both, of 190
one or more of a nominator's minor children or incompetent adult 191

children pursuant to section 2111.121 of the Revised Code. 192

(K) "Interim guardian" means a person appointed as 193
guardian when an existing guardian is temporarily or permanently 194
removed or resigns and if the welfare of the ward requires 195
immediate action, for a maximum period of fifteen days that may 196
be extended for up to two subsequent thirty-day periods for good 197
cause shown and notice of hearing to the ward and interested 198
parties. 199

(L) "Emergency guardian" means a person appointed as 200
guardian when an emergency exists and it is reasonably certain 201
that immediate action is required to prevent significant injury 202
to the person or estate of a ward, for a maximum period of 203
seventy-two hours that may be extended up to an additional 204
thirty days for good cause shown and notice of hearing to the 205
ward and interested parties. 206

(M) "Successor guardian" means a person appointed by the 207
court when a ward is still in need of a guardian of the person, 208
the estate, or both, but the current guardian dies, resigns, or 209
is removed, or an interim guardianship expires. 210

Sec. 2111.011. (A) The clerk of the probate court shall 211
furnish a guardianship guide, prepared either by the attorney 212
general with the approval of the Ohio judicial conference or by 213
the Ohio judicial conference under division (B) of this section, 214
to a guardian of an incompetent adult at either of the following 215
times, whichever is applicable: 216

(1) Upon the appointment of the guardian under section 217
2111.02 of the Revised Code; 218

(2) If the guardian was appointed prior to the effective 219
date of this section, upon the first filing by the guardian with 220

the probate court of either of the following, as applicable, 221
after that effective date: 222

(a) A guardian's account, other than a final account, that 223
is required to be filed under section 2109.302 of the Revised 224
Code; 225

(b) A guardian's report that is required to be filed under 226
section 2111.49 of the Revised Code. 227

(B) (1) If the attorney general subsequently prepares any 228
updated version of the guardianship guide, the updated guide 229
shall include the rights of a ward as stated in any relevant 230
provision of the Revised Code that is then current. The clerk of 231
the probate court shall furnish the most recent version of the 232
guide to a guardian at either of the following times, whichever 233
is applicable: 234

(a) Upon the appointment of the guardian under section 235
2111.02 of the Revised Code after the most recent version of the 236
guide is prepared; 237

(b) If the guardian was appointed prior to the date of the 238
most recent version of the guide, upon the first filing by the 239
guardian with the probate court of either of the documents 240
described in divisions (A) (2) (a) and (b) of this section, as 241
applicable, after that date. 242

(2) In the alternative, the Ohio judicial conference may 243
create, at their cost, an alternative guardianship guide for use 244
in all probate courts. The alternative guardianship guide shall 245
be distributed in accordance with all provisions contained in 246
this ~~act~~section. The court shall furnish this alternative 247
guardianship guide in accordance with the provisions of this 248
section. 249

(C) The probate court shall establish a form for a 250
guardian to sign acknowledging that the guardian received a 251
guardianship guide pursuant to this section. 252

(D) Upon receiving a guardianship guide, the guardian 253
shall sign the form specified in division (C) of this section. 254
The signed form shall be kept permanently in the guardianship 255
file of the probate court. 256

Sec. 2111.02. (A) If found necessary, a probate court on 257
its own motion or on application by any interested party shall 258
appoint, subject to divisions (C) and (D) of this section and to 259
section 2109.21 and division (B) of section 2111.121 of the 260
Revised Code, a guardian of the person, the estate, or both, of 261
a minor or incompetent adult, provided the person for whom the 262
guardian is to be appointed is a resident of the county or has a 263
legal settlement in the county. If the person for whom the 264
guardian is to be appointed is an adult, the person must be a 265
qualified respondent as described in section 2112.21 of the 266
Revised Code and have the opportunity to have the assistance of 267
counsel in the proceeding for the appointment of that guardian. 268
An interested party includes, but is not limited to, a person 269
nominated in a durable power of attorney under division (E) of 270
section ~~1337.24~~ 1337.12 of the Revised Code or in a writing as 271
described in division (A) of section 2111.121 of the Revised 272
Code. 273

Except when the guardian of an incompetent adult is an 274
agency under contract with the department of developmental 275
disabilities for the provision of protective services under 276
sections 5123.55 to 5123.59 of the Revised Code, or another 277
agency or corporation appointed by the court, the guardian of an 278
incompetent adult, by virtue of the appointment as guardian, 279

shall be the guardian of the minor children of the guardian's 280
ward upon the filing of a separate application under a new case 281
number, unless the court appoints some other person as their 282
guardian. 283

When the primary purpose of the appointment of a guardian 284
is, or was, the collection, disbursement, or administration of 285
moneys awarded by the veterans administration to the ward, or 286
assets derived from those moneys, no court costs shall be 287
charged in the proceeding for the appointment or in any 288
subsequent proceedings made in pursuance of the appointment, 289
unless the value of the estate, including the moneys then due 290
under the veterans administration award, exceeds one thousand 291
five hundred dollars. 292

(B) (1) If the probate court finds it to be in the best 293
interest of a minor or an incompetent ~~or minor adult~~, it may 294
appoint pursuant to divisions (A) and (C) of this section, on 295
its own motion or on application by an interested party, a 296
limited guardian with specific limited powers. The sections of 297
the Revised Code, rules, and procedures governing guardianships 298
apply to a limited guardian, except that the order of 299
appointment and letters of authority of a limited guardian shall 300
state the reasons for, and specify the limited powers of, the 301
guardian. The court may appoint a limited guardian for a 302
definite or indefinite period. ~~An incompetent or~~ A minor or an 303
incompetent adult for whom a limited guardian has been appointed 304
retains all of the ~~incompetent's or minor's~~ or incompetent 305
adult's rights in all areas not affected by the court order 306
appointing the limited guardian. 307

(2) If a guardian appointed pursuant to division (A) of 308
this section is temporarily or permanently removed or resigns, 309

and if the welfare of the ward requires immediate action, at any 310
time after the removal or resignation, the probate court may 311
appoint, ex parte and with or without notice to the ward or 312
interested parties, an interim guardian for a maximum period of 313
fifteen days. If the court appoints the interim guardian ex 314
parte or without notice to the ward, the court, at its first 315
opportunity, shall enter upon its journal with specificity the 316
reason for acting ex parte or without notice, and, as soon as 317
possible, shall serve upon the ward a copy of the order 318
appointing the interim guardian. For good cause shown, after 319
notice to the ward and interested parties and after a hearing, 320
the court may extend an interim guardianship for a specified 321
period, but not to exceed ~~an additional thirty days~~two 322
subsequent thirty-day periods. 323

(3) If a guardian appointed pursuant to division (A) of 324
this section dies, resigns, is removed, or an interim 325
guardianship established pursuant to division (B) (2) of this 326
section expires, and the ward is still in need of a guardian of 327
the person, the estate, or both, notice of the vacancy shall be 328
provided to the ward and sent to the ward's nearest next of kin 329
by regular United States mail, provided the court knows the 330
address of that next of kin. The court may appoint a successor 331
guardian upon application by any interested party after 332
providing notice to the ward, or may appoint a successor 333
guardian subject to divisions (C) and (D) of this section if the 334
court finds it necessary to determine the suitability of the 335
applicants or it would otherwise be in the ward's best interest. 336
If a successor guardian application has not been filed by an 337
interested party within thirty days of the notice of the 338
vacancy, the court may appoint a successor guardian sua sponte 339
and without a hearing or further notice to the ward, except that 340

the court shall provide notice to the ward following the 341
appointment of the successor guardian. 342

(4) If a minor or incompetent adult has not been placed 343
under a guardianship pursuant to division (A) of this section 344
and if an emergency exists and it is reasonably certain that 345
immediate action is required to prevent significant injury to 346
the person or estate of the minor or incompetent adult, at any 347
time after it receives notice of the emergency, the court, ex 348
parte, may issue any order that it considers necessary to 349
prevent injury to the person or estate of the minor or 350
incompetent adult, or may appoint an emergency guardian for a 351
maximum period of seventy-two hours. A written copy of any order 352
issued by a court under this division shall be served upon the 353
~~incompetent or minor~~ or incompetent adult as soon as possible 354
after its issuance. Failure to serve that order after its 355
issuance or prior to the taking of any action under its 356
authority does not invalidate the order or the actions taken. 357
The powers of an emergency guardian shall be specified in the 358
letters of appointment, and shall be limited to those powers 359
that are necessary to prevent injury to the person or estate of 360
the minor or incompetent adult. If the court acts ex parte or 361
without notice to the minor or incompetent adult, the court, at 362
its first opportunity, shall enter upon its journal a record of 363
the case and, with specificity, the reason for acting ex parte 364
or without notice. For good cause shown, after notice to the 365
minor or incompetent adult and interested parties, and after a 366
hearing, the court may extend an emergency guardianship for a 367
specified period, but not to exceed an additional thirty days. 368

(C) Prior to the appointment of a guardian or limited 369
guardian under division (A) or (B)(1) of this section, the court 370
shall conduct a hearing on the matter of the appointment. The 371

hearing shall be conducted in accordance with all of the 372
following: 373

(1) The proposed guardian or limited guardian shall appear 374
at the hearing and, if appointed, shall swear under oath that 375
the proposed guardian or limited guardian has made and will 376
continue to make diligent efforts to file a true inventory in 377
accordance with section 2111.14 of the Revised Code and find and 378
report all assets belonging to the estate of the ward and that 379
the proposed guardian or limited guardian faithfully and 380
completely will fulfill the other duties of a guardian, 381
including the filing of timely and accurate reports and 382
accountings. 383

(2) If the hearing is conducted by a magistrate, the 384
procedures set forth in Civil Rule 53 shall be followed. 385

(3) If the hearing concerns the appointment of a guardian 386
or limited guardian for an alleged incompetent adult, the burden 387
of proving incompetency shall be by clear and convincing 388
evidence. 389

(4) Upon request of the applicant, the alleged incompetent 390
adult for whom the appointment is sought or the alleged 391
~~incompetent's~~ incompetent adult's counsel, or any interested 392
party, a recording or record of the hearing shall be made. 393

(5) Evidence of a less restrictive alternative to 394
guardianship may be introduced, and when introduced, shall be 395
considered by the court. 396

(6) The court may deny a guardianship based upon a finding 397
that a less restrictive alternative to guardianship exists. 398

(7) If the hearing concerns the appointment of a guardian 399
or limited guardian for an alleged incompetent adult, the 400

alleged incompetent adult has all of the following rights: 401

(a) The right to be represented by independent counsel of 402
the alleged ~~incompetent's~~ incompetent adult's choice; 403

(b) The right to have a friend or family member of the 404
alleged ~~incompetent's~~ incompetent adult's choice present; 405

(c) The right to have evidence of an independent expert 406
evaluation introduced; 407

(d) If the alleged incompetent adult is indigent, upon the 408
alleged ~~incompetent's~~ incompetent adult's request: 409

(i) The right to have counsel and an independent expert 410
evaluator appointed at court expense; 411

(ii) If the guardianship, limited guardianship, or standby 412
guardianship decision is appealed, the right to have counsel 413
appointed and necessary transcripts for appeal prepared at court 414
expense. 415

(D) (1) If a person has been nominated to be a guardian of 416
the estate of a minor in or pursuant to a durable power of 417
attorney under section 1337.24 of the Revised Code or a writing 418
as described in division (A) of section 2111.121 of the Revised 419
Code, the person nominated has preference in appointment over a 420
person selected by the minor. A person who has been nominated to 421
be a guardian of the person of a minor in or pursuant to a 422
durable power of attorney or writing of that nature does not 423
have preference in appointment over a person selected by the 424
minor, but the probate court may appoint the person named in the 425
durable power of attorney or the writing, the person selected by 426
the minor, or another person as guardian of the person of the 427
minor. 428

(2) A person nominated as a guardian of an incompetent 429
adult child pursuant to a durable power of attorney under_ 430
division (E) of section ~~1337.24~~ 1337.12 of the Revised Code or 431
pursuant to section 2111.121 of the Revised Code shall have 432
preference in appointment over a person applying to be guardian 433
if the person nominated is competent, suitable, and willing to 434
accept the appointment, and if the incompetent adult child does 435
not have a spouse or an adult child and has not designated a 436
guardian prior to the court finding the adult child incompetent. 437

Sec. 2111.021. A competent adult ~~who is physically infirm~~ 438
may petition the probate court of the county in which the 439
petitioner resides, to place, for a definite or indefinite 440
period of time, the petitioner's person, any or all of the 441
petitioner's real or personal property, or both under a 442
conservatorship with the court. A petitioner either may grant 443
specific powers to the conservator or court or may limit any 444
powers granted by law to the conservator or court, except that 445
the petitioner may not limit the powers granted to the court by 446
this section and may not limit the requirement for bond as 447
determined by the court. The petition shall state whether the 448
person of the competent adult will be placed under the 449
conservatorship, shall state with particularity all real and 450
personal property that will be placed under the conservatorship, 451
shall state the powers granted and any limitation upon the 452
powers of the conservator or court, and shall state the name of 453
a proposed suitable conservator. 454

After a hearing, if the court finds that the petition was 455
voluntarily filed and that the proposed conservator is suitable, 456
the court shall issue an order of conservatorship. Upon issuance 457
of the order, all sections of the Revised Code governing a 458
guardianship of the person, the estate, or both, whichever is 459

involved, except those sections the application of which 460
specifically is limited by the petitioner, and all rules and 461
procedures governing a guardianship of the person, the estate, 462
or both, shall apply to the conservatorship, including, but not 463
limited to, applicable bond and accounting requirements. 464

A conservatorship shall terminate upon a judicial 465
determination of incompetency, the death of the petitioner, the 466
order of the probate court, or the execution of a written 467
termination notice by the petitioner. A termination notice shall 468
take effect upon execution by the petitioner, and shall be filed 469
with the court and served upon the conservator. A termination 470
notice executed by a petitioner relative to a conservatorship of 471
the estate and the termination of a conservatorship of the 472
estate based upon a termination notice are void unless the 473
termination notice is filed with the court within fourteen days 474
after its execution. Modification of the powers of a conservator 475
or the court may be made by the petitioner upon motion to the 476
court at any time during the conservatorship. Neither the 477
establishment of a conservatorship nor the filing of a petition 478
for conservatorship with the probate court shall be considered 479
as evidence of mental impairment under section 2111.01 of the 480
Revised Code. 481

Upon motion to the probate court and a showing of good 482
cause, the court may make confidential, or remove from 483
confidential status, any file, record, petition, motion, 484
account, or paper, except for an index, docket, or journal, that 485
pertains to a conservatorship and that is in the possession of 486
the court. 487

Sec. 2111.022. (A) A probate court, on its own motion or 488
on application of an interested party, may issue an emergency ex 489

parte order freezing the financial assets of an individual whom 490
the court or applicant has reason to believe is missing or has 491
gone or been taken ~~to another state~~ away if it is reasonably 492
certain that immediate action is required to prevent significant 493
financial harm to the individual. The order may freeze the 494
individual's assets for a period not exceeding seventy-two 495
hours. If the individual is located, a written copy of the order 496
shall be served upon the individual as soon as possible after 497
its issuance. The court, at its first opportunity, shall enter 498
upon its journal a record of the case and, with specificity, the 499
reason for the action. For good cause shown, after notice to the 500
individual and after a hearing, the court may extend the 501
emergency order for a specified period of not more than thirty 502
additional days. 503

(B) The powers of the probate court under this section are 504
in addition to and not in derogation of any powers the court has 505
under division ~~(B) (3)~~ (B) (4) of section 2111.02 of the Revised 506
Code. 507

Sec. 2111.023. (A) As used in this section, "person in 508
need of assistance" means an individual who does not have a 509
guardian and is unable to apply for medical assistance through 510
the medicaid program without the support of another person. 511

(B) (1) Upon application of an interested party, a probate 512
court may issue an emergency ex parte order appointing a 513
representative to act on behalf of a person in need of 514
assistance for the limited purpose of applying for medical 515
assistance through the medicaid program. The order shall 516
authorize the representative to take all actions necessary to 517
make an application for medical assistance pursuant to the 518
applicable provisions of the Revised Code and administrative 519

rules and regulations of the department of medicaid. 520

(2) The application of the interested party shall include 521
all of the following: 522

(a) Any affidavits or other documents necessary to attest 523
to all of the following: 524

(i) The person in need of assistance has a physical or 525
mental impairment that substantially limits the person's ability 526
to access verifications or documents necessary for the 527
department of medicaid to process medicaid applications. 528

(ii) The person in need of assistance has no available 529
representative to assist in accessing any public assistance. 530

(iii) To the best of the affiant's or representative's 531
knowledge, the person in need of assistance has not granted any 532
person a durable power of attorney, or if a durable power of 533
attorney has been granted, either the durable power of attorney 534
does not grant the powers necessary for the agent to complete a 535
medicaid application on the affiant's behalf or the agent under 536
that power of attorney is unavailable or has failed to act on 537
behalf of the person in need of assistance in accessing any 538
public assistance. 539

(iv) The person in need of assistance has no court- 540
appointed guardian. 541

(b) The current residence of the person in need of 542
assistance. 543

(c) If applicable, details of the proposed placement of 544
and plan of care for the person in need of assistance and 545
information concerning money due and owing for the person in 546
need of assistance's care. 547

(3) The representative, once appointed, shall file a 548
notice with the court within thirty days after completion of the 549
medicaid application. 550

(C) The powers of the probate court under this section are 551
in addition to and not in derogation of any powers the court has 552
under division (B) (4) of section 2111.02 of the Revised Code. 553

Sec. 2111.03. A person applying for appointment as a 554
guardian, including, but not limited to, as a limited guardian, 555
pursuant to section 2111.02 of the Revised Code, shall file with 556
the probate court an application that contains a statement of 557
the whole estate of the ward, its probable value, and the 558
probable annual rents of the ward's real property, and that also 559
contains the following: 560

(A) A statement whether the applicant ever has been 561
charged with or convicted of any crime involving theft, physical 562
violence, or sexual, alcohol, or substance abuse, and, if the 563
applicant has been so charged or convicted, the date and place 564
of each charge and each conviction; 565

(B) A statement whether a limited guardianship is sought 566
and, if sought, a specification of the limited powers that are 567
requested and a statement whether the limited guardianship is to 568
be for a definite or indefinite period; 569

(C) In the case of an application for the appointment of a 570
guardian of a minor, all of the following: 571

(1) Name, age, and residence of the minor; 572

(2) Name and residence of each parent of the minor; 573

(3) Name, degree of kinship, age, and address of next of 574
kin of the minor, if no parent is living or if a parent of the 575

minor is absent, under disability, or for other reason cannot be 576
notified; 577

~~(4) Name and residence address of the person having~~ 578
~~custody of the minor~~The affidavit as set forth in section 579
3127.23 of the Revised Code; 580

(5) The name and contact information of any person 581
nominated in a writing pursuant to section 2111.121 of the 582
Revised Code. 583

(D) In the case of an application for the appointment of a 584
guardian of an alleged incompetent adult, all of the following: 585

(1) Name, age, and residence of the person for whom such 586
appointment is sought; 587

(2) Facts upon which the application is based; 588

(3) Name, degree of kinship, age, and address of the next 589
of kin of the alleged incompetent adult; 590

(4) The proposed ward's military service, if applicable; 591

(5) The name and contact information of any person 592
nominated pursuant to division (E) of section 1337.12 of the 593
Revised Code or nominated in a writing pursuant to section 594
2111.121 of the Revised Code; 595

(6) A statement of expert evaluation under Rule 66 of the 596
Rules of Superintendence for the Courts of Ohio, by a licensed 597
physician, licensed clinical psychologist, licensed independent 598
social worker, licensed professional clinical counselor, 599
clinical nurse specialist, certified nurse practitioner, 600
physician assistant, or other qualified person as determined by 601
the court, who has evaluated or examined the proposed ward 602
within three months prior to the date of the statement of expert 603

evaluation regarding the need for establishing the guardianship.

The court, on its own motion, shall proceed as provided in this chapter, upon suggestion by the bureau of workers' compensation that any person who has made application for or been awarded compensation or death benefits as an employee or the dependent of a killed employee is a minor or an incompetent adult. In that case, no application need be filed and the bureau shall furnish the court with the name and residence of such person and the name, degree of kinship, age, and address of the father, mother, or next of kin of such person insofar as known by the bureau.

Sec. 2111.031. In connection with an application for the appointment of a guardian for an alleged incompetent adult, the court may appoint physicians, clinical nurse specialists, certified nurse practitioners, and other qualified persons as determined by the court, to examine, investigate, or represent ~~evaluate~~ the alleged incompetent adult, to assist the court in deciding whether a guardianship is necessary. The court may determine that the evaluation of the alleged incompetent adult may be accomplished by electronic means. If the alleged incompetent adult has not been evaluated within fourteen days after the court appoints physicians or other qualified persons, upon application to the court and for good cause shown, the court may order an appropriate emergency medical technician or law enforcement personnel to transport the proposed ward for evaluation.

If the person is determined to be an incompetent adult and a guardian is appointed for the person, the costs, fees, or expenses incurred to so assist the court shall be charged either against the estate of the person or against the applicant,

unless the court determines, for good cause shown, that the
costs, fees, or expenses are to be recovered from the county, in
which case they shall be charged against the county. If the
person is not determined to be an incompetent adult or a
guardian is not appointed for the person, the costs, fees, or
expenses incurred to so assist the court shall be charged
against the applicant, unless the court determines, for good
cause shown, that the costs, fees, or expenses are to be
recovered from the county, in which case they shall be charged
against the county.

A court may require the applicant to make an advance
deposit of an amount that the court determines is necessary to
defray the anticipated costs of ~~examinations~~ evaluations of an
alleged incompetent adult and to cover fees or expenses to be
incurred to assist it in deciding whether a guardianship is
necessary.

This section does not affect or apply to the duties of a
probate court investigator under sections 2111.04 and 2111.041
of the Revised Code.

Sec. 2111.04. (A) Except for an interim, successor, or
emergency guardian appointed under division (B) (2) ~~or~~, (3), or
(4) of section 2111.02 of the Revised Code, no guardian of the
person, the estate, or both shall be appointed until at least
seven days after the probate court has caused written notice,
setting forth the time and place of the hearing, to be served as
follows:

(1) In the appointment of the guardian of a minor, notice
shall be served as follows:

(a) Upon the minor, if over the age of ~~fourteen~~ twelve, by

personal service; 663

(b) Upon each parent of the minor whose name and address 664
is known or with reasonable diligence can be ascertained, 665
provided the parent is free from disability other than minority; 666

(c) Upon the next of kin of the minor who are known to 667
reside in this state, if there is no living parent, the name and 668
address of the parent cannot be ascertained, or the parent is 669
under disability other than minority; 670

(d) Upon the person having the custody of the minor. 671

(2) In the appointment of the guardian of an incompetent_ 672
adult, notice shall be served as follows: 673

(a) (i) Upon the person for whom appointment is sought by 674
personal service, by a probate court investigator, or in the 675
manner provided in division (A) (2) (a) (ii) of this section. The 676
notice shall be in boldface type and shall inform the alleged 677
incompetent adult, in boldface type, of the alleged 678
~~incompetent's incompetent adult's~~ rights to be present at the 679
hearing, to contest any application for the appointment of a 680
guardian for the alleged ~~incompetent's incompetent adult's~~ 681
person, estate, or both, and to be represented by an attorney 682
and of all of the rights set forth in division (C) (7) of section 683
2111.02 of the Revised Code. 684

(ii) If the person for whom appointment is sought is a 685
resident of, or has a legal settlement in, the county in which 686
the court has jurisdiction, but is absent from that county, the 687
probate court may designate, by order, a temporary probate court 688
investigator, in lieu of a regular probate court investigator 689
appointed or designated under section 2101.11 of the Revised 690
Code, to make the personal service of the notice described in 691

division (A) (2) (a) (i) of this section upon the person for whom 692
appointment is sought. 693

(b) Upon the next of kin of the person for whom 694
appointment is sought who are known to reside in this state. 695

(B) After service of notice in accordance with division 696
(A) of this section and for good cause shown, the court may 697
appoint a guardian prior to the time limitation specified in 698
that division. 699

(C) ~~Notice may not be waived by the person for whom the~~ 700
~~appointment is sought~~ For good cause shown, the requirement of 701
notice under division (A) of this section may be waived, except 702
for the notice to the proposed ward. 703

(D) From the service of notice until the hearing, no sale, 704
gift, conveyance, or encumbrance of the property of an alleged 705
incompetent adult shall be valid as to persons having notice of 706
the proceeding. 707

Sec. 2111.041. (A) At the time of the service of notice 708
upon an alleged incompetent adult, as required by division (A) 709
(2) (a) of section 2111.04 of the Revised Code, the court shall 710
require a ~~regular~~ probate court investigator appointed or 711
designated under section 2101.11 of the Revised Code or appoint 712
a temporary probate court investigator to investigate the 713
circumstances of the alleged incompetent adult, and, to the 714
maximum extent feasible, to communicate to the alleged 715
incompetent adult in a language or method of communication that 716
the alleged incompetent adult can understand, the alleged 717
~~incompetent's~~ incompetent adult's rights as specified in that 718
division, and subsequently to file with the court a report that 719
contains all of the following: 720

(1) A statement indicating that the notice was served and 721
describing the extent to which the alleged ~~incompetent's~~ 722
incompetent adult's rights to be present at the hearing, to 723
contest any application for the appointment of a guardian for 724
the alleged ~~incompetent's~~ incompetent adult's person, estate, or 725
both, and to be represented by an attorney were communicated to 726
the alleged incompetent adult in a language or method of 727
communication understandable to the alleged incompetent adult; 728

(2) A brief description, as observed by the investigator, 729
of the physical and mental condition of the alleged incompetent_ 730
adult; 731

(3) A recommendation regarding the necessity for a 732
guardianship or a less restrictive alternative; 733

(4) A recommendation regarding the necessity of appointing 734
pursuant to section 2111.031 of the Revised Code, an attorney to 735
represent the alleged incompetent adult. 736

(B) The report that is required by division (A) of this 737
section shall be made a part of the record in the case and shall 738
be considered by the court prior to establishing any 739
guardianship for the alleged incompetent adult. 740

Sec. 2111.05. (A) When the whole estate of a ward does not 741
exceed twenty-five thousand dollars in value, the guardian may 742
apply to the probate court for an order to terminate the 743
guardianship of the estate. Upon proof that it would be for the 744
best interest of the ward to terminate the guardianship, the 745
court may order the guardianship terminated, ~~and direct the~~ 746
~~guardian, if.~~ 747

(1) If the ward is a minor, the court may direct the 748
guardian to deposit the assets of the guardianship in a 749

depository authorized to receive fiduciary funds, payable to the ward ~~when the ward attains minor~~ upon attaining the age of majority, ~~or the court may authorize the delivery of the assets to the natural guardian of the minor, to the person by whom the minor is maintained, to the executive director of children services in the county, or to the minor's own self.~~ A receipt verifying the deposit of assets shall be submitted to the court. Release of any funds held in a depository for the benefit of the minor shall be by court order, including the release of funds to the minor upon attaining the age of majority. In the alternative and for good cause shown, the court may direct the guardian to deliver the assets to a suitable person. The person receiving the assets shall hold and dispose of them in the manner the court directs.

(2) If the ward is an incompetent adult, and the court orders the guardianship terminated, the court may authorize the deposit of the assets of the guardianship in a depository authorized to receive fiduciary funds in the name of a suitable person to be designated by the court, ~~or if.~~ A receipt verifying the deposit of assets shall be submitted to the court. Release of any funds held in a depository for the benefit of the incompetent adult shall be by court order. If the assets do not consist of money, the court may authorize delivery to a suitable person to be designated by the court. The person receiving the assets shall hold and dispose of them in the manner the court directs.

(B) If the court refuses to grant the application to terminate the guardianship, or if no such application is presented to the court, the guardian only shall be required to render account upon the termination of the guardianship, upon order of the probate court made ~~upon~~ on its own motion, or upon

the order of the court made on the motion of a person interested 781
in the wards or their property, for good cause shown, and set 782
forth upon the journal of the court. 783

(C) If the estate of a minor is twenty-five thousand 784
dollars or less ~~and the ward is a minor~~, the court, without the 785
appointment of a guardian by the court, or if a guardian is 786
appointed by the court, without the giving of bond, may 787
authorize the deposit in a depository authorized to receive 788
fiduciary funds, payable to the guardian when appointed, or to 789
~~the ward when the ward attains~~ minor upon attaining the age of 790
majority, ~~or the court may authorize delivery to the natural~~ 791
~~guardian of the minor, to the person by whom the minor is~~ 792
~~maintained, to the executive director who is responsible for the~~ 793
~~administration of children services in the county, or to the~~ 794
~~minor's own self.~~ A receipt verifying the deposit of assets 795
shall be submitted to the court. Release of any funds held in a 796
depository for the benefit of the minor shall be by court order, 797
including the release of the funds to the minor upon attaining 798
the age of majority. In the alternative and for good cause 799
shown, the court may authorize delivery of the assets to a 800
suitable person. The person receiving the assets shall hold and 801
dispose of them in the manner the court directs. 802

(D) If the whole estate of a person ~~over~~ eighteen years of 803
age or older, who has been adjudged an incompetent adult, does 804
not exceed twenty-five thousand dollars in value, the court, 805
without the appointment of a guardian by the court or if a 806
guardian is appointed by the court, without the giving of bond, 807
may authorize the deposit of the estate assets in a depository 808
authorized to receive fiduciary funds in the name of a suitable 809
person to be designated by the court, ~~or if~~. A receipt verifying 810
the deposit of assets shall be submitted to the court. Release 811

of any funds held in a depository for the benefit of the 812
incompetent adult shall be by court order. If the assets do not 813
consist of money, the court may authorize delivery to a suitable 814
person to be designated by the court. The person receiving the 815
assets shall hold and dispose of them in the manner the court 816
directs. 817

Sec. 2111.06. (A) If the powers of the person appointed as 818
guardian of a minor or an incompetent adult are not limited by 819
the order of appointment, the person shall be guardian both of 820
the person and estate of the ward. In every instance, the court 821
shall appoint the same person as guardian of the person and 822
estate of the ward, unless in the opinion of the court the 823
interests of the ward will be promoted by the appointment of 824
different persons as guardians of the person and of the estate. 825

(B) A guardian of the person of an incompetent adult shall 826
oversee the physical placement, maintenance, and care of the 827
ward. 828

(C) A guardian of the person of a minor shall be appointed 829
as to a minor having no ~~father or mother~~ living parent, whose 830
parents are unsuitable persons to have the custody of the minor 831
~~and to provide for the education of the minor as required by~~ 832
~~section 3321.01 of the Revised Code,~~ or whose interests, in the 833
opinion of the court, will be promoted by the appointment of a 834
guardian. ~~A guardian of the person shall have the custody and~~ 835
~~provide for the maintenance of the ward, and if the ward is a~~ 836
~~minor, the guardian shall also provide for the education of the~~ 837
~~ward as required by section 3321.01 of the Revised Code.~~ 838

(D) (1) A guardian of the person of a minor shall have the 839
legal custody of the minor. 840

(2) As used in division (D) (1) of this section, "legal custody" means a legal status that vests in the custodian the right to have physical care and control of the minor, and to determine where and with whom the minor shall live, and the right and duty to protect, train, and discipline the minor and to provide the minor with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities.

(E) Before exercising its jurisdiction to appoint a guardian of a minor, the court shall comply with the jurisdictional standards of sections 3127.01 to 3127.53 of the Revised Code.

Sec. 2111.08. ~~The wife and husband are the joint natural guardians of their minor children and are equally charged with their care, nurture, welfare, and education and the care and management of their estates. The wife and husband have equal powers, rights, and duties and neither parent has any right paramount to the right of the other concerning the parental rights and responsibilities for the care of the minor or the right to be the residential parent and legal custodian of the minor, the control of the services or the earnings of such minor, or any other matter affecting the minor; provided that if either parent, to the exclusion of the other, is maintaining and supporting the child, that parent shall have the paramount right to control the services and earnings of the child. Neither parent shall forcibly take a child from the guardianship of the parent who is the residential parent and legal custodian of the child.~~

~~If the wife and husband live apart, the court may award the guardianship of a minor to either parent, and the state in~~

~~which the parent who is the residential parent and legal~~ 871
~~custodian or who otherwise has the lawful custody of the minor~~ 872
~~resides has jurisdiction to determine questions concerning the~~ 873
~~minor's guardianship~~ Married parents are the joint natural 874
guardians of their minor children. 875

Sec. 2111.091. No attorney who represents ~~any other person~~ 876
~~and who is appointed as a~~ guardian under this chapter or under 877
any other provision of the Revised Code shall do either of the 878
following: 879

(A) Act as a person with co-responsibility for any 880
guardianship asset for which the guardian is responsible; 881

(B) Be a cosignatory on any financial account related to 882
the guardianship, including any checking account, savings 883
account, or other banking or trust account. 884

Sec. 2111.12. (A) A minor over the age of ~~fourteen~~ twelve 885
years may select a guardian who shall be appointed if a suitable 886
person. If a minor over the age of ~~fourteen~~ twelve years fails 887
to select a suitable person, an appointment may be made without 888
reference to the minor's wishes. The minor shall not select one 889
person to be the guardian of the minor's estate only and another 890
to be the guardian of the person only, unless the court that 891
appoints the guardian is of the opinion that the interests of 892
that minor will be promoted by that selection. 893

(B) A surviving parent by a will in writing may ~~appoint~~ 894
nominate a guardian for any of the surviving parent's children, 895
whether born at the time of making the will or afterward, to 896
continue during the minority of the child or for a less time. 897

When the ~~father or mother~~ parent of a minor ~~names~~ 898
nominates a person as guardian of the estate of that minor in a 899

will, the person ~~named~~ nominated shall have preference in 900
appointment over the person selected by the minor. A person 901
~~named~~ nominated in that will as guardian of the person of that 902
minor shall have no preference in appointment over the person 903
selected by the minor, but in that event the probate court may 904
appoint the person named in the will, the person selected by the 905
minor, or some other person. 906

~~Whenever a testamentary guardian is appointed, the 907
testamentary guardian's duties, powers, and liabilities in all 908
other respects shall be governed by the law regulating guardians 909
not appointed by will. 910~~

(C) A parent pursuant to a durable power of attorney under 911
section 1337.24 of the Revised Code or a writing as described in 912
division (A) of section 2111.121 of the Revised Code may 913
nominate a person to be a guardian for one or more of the 914
parent's minor children, whether born at the time of the making 915
of the nomination or afterward. 916

Sec. 2111.13. (A) When a guardian is appointed to have the 917
custody and maintenance of a ward, and to have charge of the 918
education of the ward if the ward is a minor, the guardian's 919
duties are as follows: 920

(1) To ~~protect and control the person~~ oversee the physical 921
placement, maintenance, and care of the ward; 922

(2) To provide suitable maintenance for the ward when 923
necessary, which shall be paid out of the estate of such ward 924
upon the order of the guardian of the person; 925

(3) To provide ~~such~~ the maintenance and education for such 926
ward ~~as that~~ the amount of the ward's estate justifies when the 927
ward is a minor and has no ~~father or mother~~ parent, or has a 928

~~father or mother-parent~~ who fails to maintain or educate the 929
ward, which shall be paid out of such ward's estate upon the 930
order of the guardian of the person; 931

(4) To obey all the orders and judgments of the probate 932
court touching the guardianship; 933

(5) To identify both family and nonfamily members with 934
whom the ward desires to communicate, and to facilitate the 935
contact that the guardian believes is in the best interest of 936
the ward. Any dispute regarding visitation of the ward shall be 937
reviewed as provided in Rule 66 of the Rules of Superintendence 938
for the Courts of Ohio. 939

(B) Except as provided in section 2111.131 of the Revised 940
Code, no part of the ward's estate shall be used for the 941
support, maintenance, or education of such ward unless ordered 942
and approved by the court. 943

(C) A guardian of the person may authorize or approve the 944
provision to the ward of medical, health, or other professional 945
care, counsel, treatment, or services unless the ward or an 946
interested party files objections with the probate court, or the 947
court, by rule or order, provides otherwise. 948

(D) Unless a person with the right of disposition for a 949
ward under section 2108.70 or 2108.81 of the Revised Code has 950
made a decision regarding whether or not consent to an autopsy 951
or post-mortem examination on the body of the deceased ward 952
under section 2108.50 of the Revised Code shall be given, a 953
guardian of the person of a ward who has died may consent to the 954
autopsy or post-mortem examination. 955

(E) If a deceased ward did not have a guardian of the 956
estate, the estate is not required to be administered by a 957

probate court, and a person with the right of disposition for a 958
ward, as described in section 2108.70 or 2108.81 of the Revised 959
Code, has not made a decision regarding the disposition of the 960
ward's body or remains, the guardian of the person of the ward 961
may authorize the burial or cremation of the ward. 962

(F) A guardian who gives consent or authorization as 963
described in divisions (D) and (E) of this section shall notify 964
the probate court as soon as possible after giving the consent 965
or authorization. 966

Sec. 2111.131. (A) The probate court may enter an order 967
that authorizes a person under a duty to pay or deliver money or 968
personal property to a minor who does not have a guardian of the 969
person and estate or a guardian of the estate, to perform that 970
duty in ~~amounts~~ an amount not exceeding ~~five~~ twenty-five 971
thousand dollars ~~annually~~, by paying or delivering the money or 972
property to any of the following: 973

(1) The guardian of the person only of the minor; 974

(2) The minor's natural guardians, if any, as determined 975
pursuant to section 2111.08 of the Revised Code; 976

(3) The minor; 977

(4) Any person who has the care and custody of the minor 978
and with whom the minor resides, other than a guardian of the 979
person only or a natural guardian; 980

(5) A financial institution incident to a deposit in a 981
federally insured savings account in the sole name of the 982
minor. A receipt verifying the deposit shall be submitted to 983
the court. Release of any funds held in a depository for the 984
benefit of the minor shall be upon court order, including the 985
release of funds to the minor upon attaining the age of 986

majority. 987

(6) A custodian designated by the court in its order, for 988
the minor under sections 5814.01 to 5814.10 of the Revised Code; 989

(7) A trust for the benefit of the minor pursuant to 990
section 2111.182 of the Revised Code. 991

(B) An order entered pursuant to division (A) of this 992
section authorizes the person or entity specified in it, to 993
receive the money or personal property on behalf of the minor 994
from the person under the duty to pay or deliver it, in ~~amounts~~ 995
an amount not exceeding five-twenty-five thousand dollars- 996
~~annually.~~ Money or personal property so received by guardians of 997
the person only, natural guardians, and custodians as described 998
in division (A) (4) of this section may be used by them only for 999
the support, maintenance, or education of the minor involved. 1000
The order of the court is prima-facie evidence that a guardian 1001
of the person only, a natural guardian, or a custodian as 1002
described in division (A) (4) of this section has the authority 1003
to use the money or personal property received. 1004

(C) A person who pays or delivers moneys or personal 1005
property in accordance with a court order entered pursuant to 1006
division (A) of this section is not responsible for the proper 1007
application of the moneys or property by the recipient. 1008

Sec. 2111.18. (A) If personal injury, damage to tangible 1009
or intangible property, or damage or loss on account of personal 1010
injury or damage to tangible or intangible property is caused to 1011
a ward by wrongful act, neglect, or default that would entitle 1012
the ward to maintain an action and recover damages for the 1013
injury, damage, or loss, and when any ward is entitled to 1014
maintain an action for damages or any other relief based on any 1015

claim or is subject to any claim to recover damages or any other 1016
relief based on any claim, the guardian of the estate of the 1017
ward may adjust and settle the claim with the advice, approval, 1018
and consent of the probate court. 1019

If it is proposed that a claim be settled for the net 1020
amount of twenty-five thousand dollars or less after payment of 1021
fees and expenses as allowed by the court, the court, upon 1022
application by a guardian of the person of the ward, or any 1023
suitable person whom the court may authorize to receive and 1024
receipt for the settlement, may authorize the settlement without 1025
the appointment of a guardian of the estate of the ward and 1026
authorize the delivery of the moneys as provided in section 1027
2111.05 of the Revised Code. The court may authorize the person 1028
receiving the moneys to execute a complete release on account of 1029
the receipt. The payment shall be a complete and final discharge 1030
of that claim. In the settlement, if the ward is a minor, the 1031
parent or parents of the minor may waive all claim for damages 1032
on account of loss of service of the minor, and that claim may 1033
be included in the settlement. If the claimant is a minor, 1034
records of proceedings pursuant to this section are not subject 1035
to disclosure to any person who is not a party to the 1036
settlement, or made available for publication or inspection, 1037
except upon motion and show of good cause. If the claimant is a 1038
minor, records of proceedings pursuant to this section are not 1039
subject to disclosure to any person who is not a party to the 1040
settlement, or made available for publication or inspection, 1041
except upon motion and show of good cause. 1042

(B) Nothing in this section is intended to create or imply 1043
a duty upon a guardian of the person of the ward to apply for 1044
authority to exercise any power authorized in this section. No 1045
inference of impropriety or liability of a guardian of the 1046

person of the ward or others associated with the guardian of the 1047
person of the ward arises as a result of the guardian of the 1048
person of the ward not applying for authority to exercise a 1049
power authorized in this section. 1050

Sec. 2111.181. If personal injury, damage to tangible or 1051
intangible property, or damage or loss on account of personal 1052
injury or damage to tangible or intangible property is caused to 1053
a minor who claims to be emancipated, by wrongful act, neglect, 1054
or default that would entitle the minor to maintain an action 1055
and recover damages for the injury, damage, or loss, and if any 1056
minor who claims to be emancipated is entitled to maintain an 1057
action for damages or any other relief based on any claim, or is 1058
subject to any claim to recover damages or any other relief 1059
based on any claim, the minor who claims to be emancipated may 1060
file an application in the probate court in the county where the 1061
minor then resides, praying for a finding by the court that the 1062
minor is in fact emancipated for the sole purpose of settlement 1063
of the claim, and authorizing, approving, and consenting to the 1064
settlement of the claim by the minor without the appointment of 1065
a guardian. 1066

Upon a hearing on the application, after five days' 1067
written notice of the time and place of the hearing has been 1068
given to each of the living parents of the minor, whose name and 1069
address is known, provided the parent is free from disability 1070
other than minority, or, if there is no living parent, after 1071
that notice to the next of kin of the minor known to reside in 1072
the county, the court may find the minor to be emancipated, may 1073
authorize, approve, and consent to the settlement of the claim 1074
by the minor without the appointment of a guardian, may 1075
authorize the minor to receive and receipt for the settlement, 1076
and, upon the minor executing and delivering a full and complete 1077

release for the injuries, damages, losses, or claims, may 1078
authorize the delivery and payment of the moneys to the minor, 1079
to a trustee or guardian of the estate of the minor appointed by 1080
the court for the benefit of the minor, or to a depository 1081
authorized to receive fiduciary funds to hold the moneys payable 1082
to the ~~ward~~ minor when the ~~ward~~ minor attains the age of 1083
majority, or for the benefit of the minor, as the court may 1084
direct. 1085

Upon the finding of the probate court that the minor was, 1086
at the time of the injury, damage, loss, or claim, an 1087
emancipated minor, and provided the notice required by this 1088
section has been given to each living parent, whose name and 1089
address is known, then the release executed by the emancipated 1090
minor shall be a full and complete discharge and release of any 1091
claim that either or both of the parents might have by reason of 1092
the personal injury, damage to tangible or intangible property, 1093
damage or loss on account of personal injury, or damage to 1094
tangible or intangible property, or any other claim of the 1095
minor. 1096

Sec. 2111.19. A guardian, whether appointed by a court in 1097
this state or elsewhere, may complete the contracts of the ward 1098
for the purchase or sale of real property ~~or~~. An appointed 1099
successor guardian may complete any authorized contract relating 1100
to real property entered into by a guardian who has died or been 1101
removed. The appointed successor guardian shall proceed in the 1102
manner provided by sections 2113.48 to 2113.50 of the Revised 1103
Code. 1104

Sec. 2111.20. The guardian of the person and estate, or of 1105
the estate only, may sell all or any part of the personal 1106
property of the ward if the sale is for the best interest of the 1107

ward, with prior court approval.

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Sec. 2111.23. Whenever a ward, for whom a guardian of the estate or of the person and estate has been appointed, is interested in any suit or proceeding in the probate court, such guardian shall in all such suits or proceedings act as guardian ad litem for such ward, except as to suits or proceedings in which the guardian has an adverse interest. In a suit or proceeding in which the guardian has an adverse interest, the court shall appoint a guardian ad litem to represent that ward.

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Whenever a minor or other person under legal disability, for whom no guardian of the estate or of the person and estate has been appointed, is interested in any suit or proceeding in such court, the court may appoint a guardian or a guardian ad litem. ~~In a suit or proceeding in which the guardian has an adverse interest, the court shall appoint a guardian ad litem to~~ represent such minor or other person under legal disability.

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Sec. 2111.26. A guardian may lease ~~the possession and use of to others~~ the real property of the ~~guardian's~~ ward or any part of it for a term of years, renewable or otherwise, by perpetual lease, with or without the privilege of purchase, or may lease upon the terms and for the time that the probate court approves any lands belonging to the ward containing coal, gypsum, petroleum oil, natural gas, gravel, stone, or any other mineral substance for the purpose of drilling, mining, or excavating for and removing any of those substances, or the guardian may modify or change in any respect any lease previously made.

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The lease, or modification or change in a lease previously made, may be made when the guardian of the person and estate or of the estate only applies to the court by which the guardian

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was appointed and the court finds that the lease or modification 1138
or change is necessary for the support of the ward or of the 1139
ward's family, for the payment of the just debts of the ward, 1140
for the ward's education, if a minor, to secure the improvement 1141
of the real property of the ward and increase the rent, to pay 1142
any liens or claims against the real property, if the court 1143
finds that the real property is suffering unavoidable waste, or 1144
that in any other respect it will be for the best interests of 1145
the ward or those persons for whom the ward is required by law 1146
to provide. 1147

Sec. 2111.33. (A) ~~A~~ Upon motion, a guardian may use the 1148
moneys and personal property of the guardian's ward to improve 1149
the ward's real property. The guardian shall file in the probate 1150
court in which the guardian was appointed a ~~petition~~ motion 1151
containing the following: 1152

(1) A description of the premises to be improved; 1153

(2) ~~The~~ If applicable, the amount of rent the premises 1154
yield at the time the ~~petition~~ motion is filed; 1155

(3) In what manner the improvement is proposed to be made; 1156

(4) The proposed expenditures for the improvement; 1157

(5) The rent the premises will probably yield when so 1158
improved, if any; 1159

(6) A statement of the value of the ward's personal 1160
property; 1161

(7) Other facts that are pertinent to the question whether 1162
the improvement should be made; 1163

~~(8) A prayer that the guardian be authorized to use so~~ 1164
~~much of the ward's money and personal property that is necessary~~ 1165

~~to make the improvement;~~ 1166

~~(9) The character of the disability of the ward, and if it 1167
is incompetency, whether the disability is curable or not, 1168
temporary, or confirmed, and its duration; 1169~~

~~(10) The names, ages, and residence of the family of the 1170
ward, including the spouse and those known to be residents of 1171
the county who have the next estate of inheritance from the 1172
ward. All of those persons, as well as the ward, shall be made 1173
defendants and notified of the pendency and prayer of the 1174
petition in the manner that the court directs. 1175~~

~~(B) If the property is so situated that, to the best 1176
interests of the ward's estate, it can be advantageously 1177
improved in connection with the improvement of property adjacent 1178
to it, the petition shall show this and have a prayer to so 1179
improve the property. The court may appoint a guardian ad litem to 1180
report to the court the guardian ad litem's opinion whether the 1181
improvement proposed will be necessary, reasonable, and 1182
beneficial to the estate of the ward. 1183~~

Sec. 2111.37. If a nonresident minor, or incompetent, or 1184
~~person confined in a state, charitable, or correctional~~ 1185
~~institution~~ adult has real property or rights, credits, moneys, 1186
or other personal property in this state, the probate court of 1187
the county in which the property or a part of it is situated may 1188
appoint a resident guardian of the ward to manage, collect, 1189
lease, and take care of the ward's property. The appointment may 1190
be made whether or not a ward has a guardian, trustee, or other 1191
conservator in the state of the ward's residence, and, if the 1192
ward has a guardian, trustee, or other conservator in the state 1193
of the ward's residence, the control and authority of the 1194
resident guardian appointed in this state shall be superior as 1195

to all property of the ward in this state. 1196

The first appointment of a resident guardian of a 1197
nonresident ward shall extend to all the property and effects of 1198
the ward in this state and exclude the jurisdiction of the 1199
probate court of any other county. 1200

Sec. 2111.38. The resident guardian of a nonresident ward 1201
shall give bond and be bound and controlled by all the statutes 1202
of this state as though the resident guardian were a guardian of 1203
a ward resident in this state, and shall have all of the 1204
authority of a guardian of a resident ward including the 1205
authority to lease or sell real property belonging to the ward. 1206

Unless removed by the probate court, a resident guardian 1207
of a nonresident minor shall hold that appointment until the 1208
minor dies or arrives at the age of majority, whether or not the 1209
minor ~~is~~ was over fourteen years of age at the time of 1210
appointment prior to the effective date of this section or 1211
whether or not the minor is over twelve years of age at the time 1212
of appointment on or after the effective date of this section. A 1213
resident guardian of any other nonresident ward shall hold that 1214
appointment until the death of the ward or until the court is 1215
satisfied that the necessity for the guardianship no longer 1216
exists. 1217

All moneys due to the nonresident ward while the resident 1218
guardianship continues shall be paid over to the ward's foreign 1219
guardian ~~so far as necessary or proper for the ward's support~~ 1220
~~and maintenance~~ if it is in the ward's best interest. If the ward 1221
dies, the moneys shall be paid to the ward's ancillary 1222
administrator or other legal representative, provided that the 1223
court that appointed the resident guardian has satisfactory 1224
proof, as provided by section 2111.39 of the Revised Code, of 1225

the authority of the foreign guardian, administrator, or other 1226
legal representative to receive the moneys or properties of the 1227
nonresident ward, that the security given by the foreign 1228
guardian, administrator, or other legal representative is 1229
sufficient to protect the ward's interest or estate, and that 1230
the court considers it best for the ward or the ward's estate. 1231

Sec. 2111.39. When a foreign legal representative of a 1232
nonresident ~~ward~~ minor or incompetent adult applies to have all 1233
or any of the moneys or property in the possession or under the 1234
control of the resident guardian of the ~~ward~~ nonresident minor 1235
or incompetent adult paid or delivered to the foreign 1236
representative, the foreign representative shall file a petition 1237
or motion in the probate court by which the resident guardian 1238
was appointed. The resident guardian shall be given thirty days' 1239
notice of the time of hearing on the petition or motion, and the 1240
foreign representative shall produce an exemplification under 1241
the seal of the office, if there is a seal, of the proper court 1242
of the state of the foreign representative's residence 1243
containing all the entries on record in relation to the foreign 1244
representative's appointment and qualification, authenticated as 1245
required by the act of congress in those cases. Upon the 1246
hearing, the court shall make an order that it considers for the 1247
best interests of the nonresident ~~ward~~ minor or ~~the nonresident~~ 1248
~~ward's estate~~ incompetent adult. 1249

Sec. 2111.44. ~~Applications~~ Proceedings for the sale of real 1250
property by resident guardians of ~~wards who live out of this~~ 1251
~~state~~ nonresident minors or incompetent adults shall be made in 1252
the county in which the land is situated. If the real property 1253
is situated in two or more counties, the ~~application~~ proceedings 1254
shall be ~~made~~ commenced in one of the counties in which a part 1255
of it is situated. Additional ~~security that bond~~ may be ~~approved~~ 1256

ordered by the probate court of the county in which the 1257
application is made shall be required from the guardian 1258
proceedings are commenced if considered necessary and in the 1259
nonresident minor's or incompetent adult's best interest. 1260

Sec. 2111.46. When a guardian has been appointed for a 1261
minor before the minor is over ~~fourteen~~ twelve years of age, the 1262
guardian's power shall continue until the ward arrives at the 1263
age of majority, unless removed for good cause or unless the 1264
ward selects another suitable guardian. After the selection is 1265
made and approved by the probate court and the person selected 1266
is appointed and qualified, the powers of the former guardian 1267
shall cease. The former guardian's final account as guardian 1268
shall then be filed and settled in court. 1269

Upon the termination of a guardianship of the person, 1270
estate, or both of a minor before the minor reaches eighteen 1271
years of age, if a successor guardian is not appointed and if 1272
the court finds that the minor is without proper care, the court 1273
shall certify a copy of its finding together with as much of the 1274
record and any further information that the court considers 1275
necessary, or as the juvenile court may request, to the juvenile 1276
court for further proceedings. Upon that certification, the 1277
juvenile court shall have exclusive jurisdiction respecting the 1278
minor. 1279

Sec. 2111.47. (A) Except as provided in this division, for 1280
any guardianship of an incompetent adult, upon written request 1281
by the ward, the ward's attorney, or any interested party made 1282
at any time after the original appointment of the guardian, a 1283
hearing shall be held in accordance with section 2111.02 of the 1284
Revised Code to evaluate the continued necessity of the 1285
guardianship. Upon written request by the ward, the ward's 1286

attorney, or any interested party, the court shall conduct a 1287
minimum of one hearing under this division in the calendar year 1288
in which the guardian was appointed, and upon such written 1289
request, shall conduct a minimum of one hearing in each of the 1290
following calendar years. On its own motion or upon written 1291
request by the ward, the ward's attorney, or any interested 1292
party, the court may, in its discretion, conduct a hearing 1293
within the first one hundred twenty days after appointment of 1294
the guardian or conduct more than one hearing in a calendar 1295
year. 1296

(B) If the ward alleges competence, the burden of proving 1297
incompetence shall be upon the guardian, by clear and convincing 1298
evidence. The statement of expert evaluation filed with the 1299
application for appointment of the guardian or the most recent 1300
statement of expert evaluation filed with the guardian's annual 1301
or biennial report, or both statements, may satisfy the 1302
guardian's burden of proof unless contradicted by medical 1303
evidence or a statement from a licensed physician, licensed 1304
clinical psychologist, licensed independent social worker, 1305
licensed professional clinical counselor, clinical nurse 1306
specialist, certified nurse practitioner, physician assistant, 1307
or developmental disabilities team member, submitted by the 1308
ward. 1309

(C) Upon reasonable notice to the guardian, to the ward, 1310
and to the person on whose application the appointment was made, 1311
and upon satisfactory proof that the necessity for the 1312
guardianship no longer exists or that the letters of appointment 1313
were improperly issued, the probate court shall order that the 1314
guardianship of an incompetent adult terminate and shall make an 1315
appropriate entry upon the journal. Thereupon—Upon such entry, 1316
the guardianship shall cease, the accounts of the guardian shall 1317

be settled by the court, and the ward shall be restored to the 1318
full control of the ward's property as before the appointment. 1319
~~Such~~The entry terminating the guardianship of an incompetent 1320
~~person~~adult shall have the same effect as a determination by 1321
the court that such person is competent. 1322

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 1323
section, the guardian of an incompetent ~~person~~adult shall file 1324
a guardian's report with the court two years after the date of 1325
the issuance of the guardian's letters of appointment and 1326
biennially after that time, or at any other time upon the motion 1327
or a rule of the probate court. The report shall be in a form 1328
prescribed by the court and shall include all of the following. 1329

(a) The present address of the place of residence of the 1330
ward; 1331

(b) The present address of the guardian; 1332

(c) If the place of residence of the ward is not the 1333
ward's personal home, the name of the facility at which the ward 1334
resides and the name of the person responsible for the ward's 1335
care; 1336

(d) The approximate number of times during the period 1337
covered by the report that the guardian has had contact with the 1338
ward, the nature of those contacts, and the date that the ward 1339
was last seen by the guardian; 1340

(e) Any major changes in the physical or mental condition 1341
of the ward observed by the guardian; 1342

(f) The opinion of the guardian as to the necessity for 1343
the continuation of the guardianship; 1344

(g) The opinion of the guardian as to the adequacy of the 1345

present care of the ward; 1346

(h) The date that the ward was last examined or otherwise 1347
seen by a physician, clinical nurse specialist, or certified 1348
nurse practitioner and the purpose of that visit; 1349

(i) A statement by a licensed physician, licensed clinical 1350
nurse specialist, licensed certified nurse practitioner, 1351
licensed physician assistant, licensed clinical psychologist, 1352
licensed independent social worker, licensed professional 1353
clinical counselor, ~~or developmental disability team that~~ 1354
member, or other qualified person who has evaluated or examined 1355
the ward within three months prior to the date of the report as 1356
to the need for continuing the guardianship. The court may waive 1357
the requirement of filing further biennial statements of expert 1358
evaluation if, in the opinion of the qualified evaluator, it is 1359
reasonably certain that the ward's condition will not improve 1360
and that the necessity for guardianship will continue to exist. 1361

(2) The court shall review a report filed pursuant to 1362
division (A)(1) of this section to determine if a continued 1363
necessity for the guardianship exists. The court may direct a 1364
probate court investigator to verify aspects of the report. 1365

(3) Division (A)(1) of this section applies to guardians 1366
appointed prior to, as well as on or after, ~~the effective date~~ 1367
~~of this section~~ October 12, 2016. A guardian appointed prior to 1368
that date shall file the first report in accordance with any 1369
applicable court rule or motion, or, in the absence of such a 1370
rule or motion, upon the next occurring date on which a report 1371
would have been due if division (A)(1) of this section had been 1372
in effect on the date of appointment as guardian, and shall file 1373
all subsequently due reports biennially after that time. 1374

(B) If, upon review of any report required by division (A) 1375
(1) of this section, the court finds that it is necessary to 1376
intervene in a guardianship, the court shall take any action 1377
that it determines is necessary, including, but not limited to, 1378
terminating or modifying the guardianship. 1379

~~(C) Except as provided in this division, for any 1380
guardianship, upon written request by the ward, the ward's 1381
attorney, or any other interested party made at any time after 1382
the expiration of one hundred twenty days from the date of the 1383
original appointment of the guardian, a hearing shall be held in 1384
accordance with section 2111.02 of the Revised Code to evaluate 1385
the continued necessity of the guardianship. Upon written 1386
request, the court shall conduct a minimum of one hearing under 1387
this division in the calendar year in which the guardian was 1388
appointed, and upon written request, shall conduct a minimum of 1389
one hearing in each of the following calendar years. Upon its 1390
own motion or upon written request, the court may, in its 1391
discretion, conduct a hearing within the first one hundred 1392
twenty days after appointment of the guardian or conduct more 1393
than one hearing in a calendar year. If the ward alleges 1394
competence, the burden of proving incompetence shall be upon the 1395
applicant for guardianship or the guardian, by clear and 1396
convincing evidence. 1397~~

Sec. 2111.50. (A) (1) At all times, the probate court is 1398
the superior guardian of wards who are subject to its 1399
jurisdiction, and all guardians who are subject to the 1400
jurisdiction of the court shall obey all orders of the court 1401
that concern their wards or guardianships. 1402

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 1403
section, the control of a guardian over the person, the estate, 1404

or both of the guardian's ward is limited to the authority that 1405
is granted to the guardian by the Revised Code, relevant 1406
decisions of the courts of this state, and orders or rules of 1407
the probate court. 1408

(b) Except for the powers specified in division (E) of 1409
this section and unless otherwise provided in or inconsistent 1410
with another section of the Revised Code, the probate court may 1411
confer upon a guardian any power that this section grants to the 1412
probate court in connection with wards. Nothing in this section 1413
is intended to create or imply a duty upon a guardian to apply 1414
for authority to exercise any power authorized in this section. 1415
No inference of impropriety or liability of the guardian or 1416
others associated with the guardian shall arise as a result of a 1417
guardian not applying for authority to exercise a power 1418
authorized in this section. 1419

(c) For good cause shown, the probate court may limit or 1420
deny, by order or rule, any power that is granted to a guardian 1421
by a section of the Revised Code or relevant decisions of the 1422
courts of this state. 1423

(B) In connection with any person whom the probate court 1424
has found to be an incompetent adult or a minor subject to 1425
guardianship and for whom the court has appointed a guardian, 1426
the court has, subject to divisions (C) to (E) of this section, 1427
all the powers that relate to the person and estate of the ward 1428
and that the ward could exercise if present and not a minor or 1429
under a disability, except the power to make or revoke a will. 1430
These powers include, but are not limited to, the power to do 1431
any of the following: 1432

(1) Convey, release, or disclaim the present, contingent, 1433
or expectant interests in real or personal property of the ward, 1434

including, but not limited to, dower and any right of 1435
survivorship incident to a transfer on death designation, 1436
payable on death designation, survivorship tenancy, joint 1437
tenancy, or tenancy by the entireties; 1438

(2) Exercise, release, or disclaim powers as a trustee, 1439
personal representative, custodian for a minor, guardian, or 1440
donee of a power of appointment; 1441

(3) Subject to division (B) (4) of this section, enter into 1442
contracts that may not extend beyond the minority, disability, 1443
or life of the ward; 1444

(4) Create, amend, or revoke revocable trusts of property 1445
of the estate of the ward that may extend beyond the minority, 1446
disability, or life of the ward; 1447

(5) Exercise options to purchase securities or other 1448
property; 1449

(6) Exercise rights to elect options under annuities and 1450
insurance policies, including changing beneficiaries of 1451
insurance policies, retirement plans, individual retirement 1452
accounts, and annuities, and to surrender an annuity or 1453
insurance policy for its cash value; 1454

(7) Exercise the right to an elective share in the estate 1455
of the deceased spouse of the ward pursuant to Chapter 2106. of 1456
the Revised Code; 1457

(8) Make gifts, in trust or otherwise, to relatives of the 1458
ward and, consistent with any prior pattern of the ward of 1459
giving to charities or of providing support for friends, to 1460
charities and friends of the ward. 1461

(C) Except for the powers specified in division (D) of 1462

this section, all powers of the probate court that are specified 1463
in this chapter and that relate either to any person whom it has 1464
found to be an incompetent adult or a minor subject to 1465
guardianship and for whom it has appointed a guardian and all 1466
powers of a guardian that relate to the guardian's ward or 1467
guardianship as described in division (A)(2) of this section, 1468
shall be exercised in the best interest, as determined in the 1469
court's or guardian's judgment, of the following: 1470

(1) The ward whom the probate court has found to be an 1471
incompetent adult or a minor subject to guardianship; 1472

(2) The dependents of the ward; 1473

(3) The members of the household of the ward. 1474

(D) If the court is to exercise or direct the exercise, 1475
pursuant to division (B) of this section, of the power to make 1476
gifts in trust or otherwise, the following conditions shall 1477
apply: 1478

(1) The exercise of the particular power shall not impair 1479
the financial ability of the estate of the ward whom the probate 1480
court has found to be an incompetent adult or a minor subject to 1481
guardianship and for whom the court has appointed a guardian, to 1482
provide for the ward's foreseeable needs for maintenance and 1483
care; 1484

(2) If applicable, the court shall consider any of the 1485
following: 1486

(a) The estate, income, and other tax advantages of the 1487
exercise of a particular power to the estate of a ward whom the 1488
probate court has found to be an incompetent adult or a minor 1489
subject to guardianship and for whom the court has appointed a 1490
guardian; 1491

(b) Any pattern of giving of, or any pattern of support 1492
provided by, the ward prior to the ward's incompetence; 1493

(c) The disposition of property made by the ward's will or 1494
revocable trust; 1495

(d) If there is no knowledge of a will or revocable trust 1496
of the ward, the ward's prospective heirs; 1497

(e) Any relevant and trustworthy statements of the ward, 1498
whether established by hearsay or other evidence. 1499

(E) (1) The probate court shall cause notice as described 1500
in division (E) (2) of this section to be given and a hearing to 1501
be conducted prior to its exercise or direction of the exercise 1502
of any of the following powers pursuant to division (B) of this 1503
section: 1504

(a) The exercise, release, or disclaimer of powers as a 1505
donee of a power of appointment; 1506

(b) ~~Unless~~If the amount of the gift is ~~no~~ more than one 1507
thousand dollars, the making of a gift, in trust or otherwise; 1508

(c) The power to create, amend, or revoke a revocable 1509
trust as described in division (B) (4) of this section; 1510

(d) The power to exercise rights to elect options under 1511
annuities and insurance policies, including changing 1512
beneficiaries of insurance policies, retirement plans, 1513
individual retirement accounts, and annuities, and to surrender 1514
an annuity or insurance policy for its cash value, as described 1515
in division (B) (6) of this section. 1516

(2) The notice required by division (E) (1) of this section 1517
shall be given to the following persons: 1518

- (a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E) (1) of this section, to the guardian;
- (b) To the ward whom the probate court has found to be an incompetent adult or a minor subject to guardianship;
- (c) If known, to a guardian who applied for the exercise of a power specified in division (E) (1) of this section, to the prospective heirs of the ward whom the probate court has found to be an incompetent adult or a minor subject to guardianship under section 2105.06 of the Revised Code, to the beneficiaries under the last known will of the ward or under an existing revocable trust of the ward, and to any person who has a legal interest in property that may be divested or limited as the result of the exercise of a power specified in division (E) (1) of this section;
- (d) To all of the following as applicable:
- (i) The heirs at law and next of kin of the ward;
- (ii) The beneficiaries under an existing will or revocable trust of the ward;
- (iii) The beneficiaries of any insurance policies, retirement plans, individual retirement accounts, and annuities owned by the ward;
- (iv) The beneficiaries under any proposed revocable trust and the proposed beneficiaries under any changes in the designation of beneficiaries of any insurance policies, retirement plans, individual retirement accounts, or annuities as described in division (E) (2) (d) (iii) of this section.
- (e) To any other persons the court orders.

(F) When considering any question related to, and issuing 1547
orders for, medical or surgical care or treatment of 1548
~~incompetents or minors~~ or incompetent adults subject to 1549
guardianship, the probate court has full parens patriae powers 1550
unless otherwise provided by a section of the Revised Code. 1551

Sec. 2112.01. As used in this chapter: 1552

(A) "Adult" means an individual who is eighteen years of 1553
age or older. 1554

(B) "Guardian" has the same meaning as in section 2111.01 1555
of the Revised Code. 1556

(C) "Guardian of the person" means a person appointed by 1557
the court to make decisions regarding the support, care, 1558
education, health, and welfare of a ward. "Guardian of the 1559
person" does not include a guardian ad litem. 1560

(D) "Guardian of the estate" means a person appointed by 1561
the court to administer the estate of a ward. 1562

(E) "Ward" means any adult who has been adjudicated an 1563
incompetent adult and for whom a guardian is acting or for whom 1564
the probate court is acting pursuant to section 2111.50 of the 1565
Revised Code. 1566

(F) "Emergency" means a circumstance that makes it 1567
reasonably certain that immediate action is required to prevent 1568
significant injury to a respondent's health, safety, welfare, or 1569
property and for which the appointment of a guardian or issuance 1570
of a protective order is necessary because no other person has 1571
authority and is willing to act on the respondent's behalf. 1572

(G) "Guardianship order" means an order appointing a 1573
guardian. 1574

(H) "Guardianship proceeding" means a judicial proceeding 1575
in which an order for the appointment of a guardian is sought or 1576
has been issued. 1577

(I) "Home state" means the state in which the respondent 1578
was physically present, including any period of temporary 1579
absence, for at least six consecutive months immediately before 1580
the filing of an application for appointment of a guardian or 1581
the issuance of a protective order or, if none, the state in 1582
which the respondent was physically present, including any 1583
period of temporary absence, for at least six consecutive months 1584
ending within the six months prior to the filing of the 1585
application. 1586

(J) "Party" means the respondent, applicant, guardian, or 1587
other person allowed by the court to participate in a 1588
guardianship or protective proceeding. 1589

(K) "Person," except in the terms guardian of the person 1590
and protected person, means an individual, parent, corporation, 1591
business trust, estate, trust, partnership, limited liability 1592
company, association, joint venture, government, governmental 1593
agency or instrumentality, public corporation, or other legal or 1594
commercial entity. 1595

(L) "Protected person" means an adult for whom a 1596
protective order has been issued. 1597

(M) "Protective order" means an order appointing a 1598
guardian or other order under division ~~(B) (3)~~ (B) (4) of section 1599
2111.02 of the Revised Code related to the management of an 1600
adult's person, property, or both or an order under section 1601
2111.022 of the Revised Code related to the management of an 1602
individual's property. 1603

(N) "Protective proceeding" means a judicial proceeding in 1604
which a protective order is sought or has been issued. 1605

(O) "Record" means information that is inscribed on a 1606
tangible medium or that is stored in an electronic or other 1607
medium and is retrievable in perceivable form. 1608

(P) "Respondent" means an adult for whom a protective 1609
order or the appointment of a guardian is sought. 1610

(Q) "Significant-connection state" means a state, other 1611
than the home state, with which a respondent has a significant 1612
connection other than mere physical presence and in which 1613
substantial evidence concerning the respondent is available. 1614

(R) ~~"Incompetent"~~ "Incompetent adult" has the same meaning 1615
as in section 2111.01 of the Revised Code. 1616

(S) "State" means a state of the United States, the 1617
District of Columbia, Puerto Rico, the United States Virgin 1618
Islands, or any territory or insular possession subject to the 1619
jurisdiction of the United States. "State" includes an Indian 1620
tribe or band that is recognized by federal law or formally 1621
acknowledged by a state. 1622

Sec. 2746.06. In addition to any applicable fees or costs 1623
set forth in sections 2746.01, 2746.02, and 2746.04 of the 1624
Revised Code or any other applicable provision of law, and 1625
subject to any waiver of fees for combat zone casualties under 1626
section 2101.164 of the Revised Code and any reduction of fees 1627
under section 2101.20 of the Revised Code, a probate court shall 1628
tax as costs or otherwise require the payment of fees for the 1629
following services rendered or as compensation for the following 1630
persons or any other of the following fees that are applicable 1631
in a particular case: 1632

(A) The fees provided for in sections 2101.16, 2101.17,	1633
2101.18, and 2101.32 of the Revised Code;	1634
(B) Additional fees to computerize the court, make	1635
available computerized legal research services, and computerize	1636
the office of the clerk of the court, as provided in section	1637
2101.162 of the Revised Code;	1638
(C) In a proceeding upon the assignment of property in	1639
trust for the benefit of creditors, the fees provided for in	1640
section 1313.52 of the Revised Code;	1641
(D) The fees allowable to a special master commissioner	1642
under section 2101.07 of the Revised Code;	1643
(E) In a proceeding filed pursuant to dispute resolution	1644
procedures established by rule of the probate judge, a filing	1645
fee, as provided in section 2101.163 of the Revised Code;	1646
(F) Costs incident to the appointment of a fiduciary, as	1647
provided in section 2101.21 of the Revised Code;	1648
(G) A fee for solemnizing a marriage, as provided in	1649
section 2101.27 of the Revised Code;	1650
(H) The additional marriage license fee provided for in	1651
section 3113.34 of the Revised Code;	1652
(I) The fee for deposit of a will provided for in section	1653
2107.07 of the Revised Code;	1654
(J) In a proceeding for the appointment of a guardian for	1655
an alleged incompetent <u>adult</u> , physicians and other qualified	1656
persons to examine, investigate, or represent <u>evaluate</u> the	1657
alleged incompetent <u>adult</u> , as provided in section 2111.031 of	1658
the Revised Code;	1659

(K) In an action to obtain authority to sell real estate, 1660
the fees for failure to enter a release and satisfaction 1661
provided for in section 2127.19 of the Revised Code; 1662

(L) In a proceeding in aid of execution, the fees provided 1663
for in section 2333.26 and 2333.27 of the Revised Code. 1664

Section 2. That existing sections 2109.21, 2111.01, 1665
2111.011, 2111.02, 2111.021, 2111.022, 2111.03, 2111.031, 1666
2111.04, 2111.041, 2111.05, 2111.06, 2111.08, 2111.091, 2111.12, 1667
2111.13, 2111.131, 2111.18, 2111.181, 2111.19, 2111.20, 2111.23, 1668
2111.26, 2111.33, 2111.37, 2111.38, 2111.39, 2111.44, 2111.46, 1669
2111.47, 2111.49, 2111.50, 2112.01, and 2746.06 of the Revised 1670
Code are hereby repealed. 1671

Section 3. That sections 2111.07, 2111.15, 2111.34, 1672
2111.35, 2111.36, and 2111.45 of the Revised Code are hereby 1673
repealed. 1674

Section 4. The General Assembly, applying the principle 1675
stated in division (B) of section 1.52 of the Revised Code that 1676
amendments are to be harmonized if reasonably capable of 1677
simultaneous operation, finds that the following sections, 1678
presented in this act as composites of the sections as amended 1679
by the acts indicated, are the resulting versions of the 1680
sections in effect prior to the effective date of the sections 1681
as presented in this act: 1682

Section 2109.21 of the Revised Code as amended by both 1683
S.B. 117 and S.B. 124 of the 129th General Assembly. 1684

Section 2111.12 of the Revised Code as amended by both 1685
S.B. 117 and S.B. 124 of the 129th General Assembly. 1686