

As Introduced

131st General Assembly

Regular Session

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S. B. No. 328

Senator Coley

Cosponsors: Senators Eklund, Hite, Patton, Jones

A BILL

To amend sections 3109.04, 3109.78, 3109.79, 1
3109.80, 3310.51, 3313.64, 3313.649, and 2
3313.672 and to enact sections 3109.84, 3
3109.841, 3109.842, 3109.843, 3109.844, 4
3109.845, 3109.846, 3109.847, 3109.848, 5
3109.849, 3109.8410, 3109.8411, 3109.8412, 6
3109.8413, 3109.8414, 3109.8415, and 5153.164 of 7
the Revised Code regarding host family 8
affidavits for the care of children. 9

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

Section 1. That sections 3109.04, 3109.78, 3109.79, 10
3109.80, 3310.51, 3313.64, 3313.649, and 3313.672 be amended and 11
sections 3109.84, 3109.841, 3109.842, 3109.843, 3109.844, 12
3109.845, 3109.846, 3109.847, 3109.848, 3109.849, 3109.8410, 13
3109.8411, 3109.8412, 3109.8413, 3109.8414, 3109.8415, and 14
5153.164 of the Revised Code be enacted to read as follows: 15

Sec. 3109.04. (A) In any divorce, legal separation, or 16
annulment proceeding and in any proceeding pertaining to the 17
allocation of parental rights and responsibilities for the care 18

of a child, upon hearing the testimony of either or both parents 19
and considering any mediation report filed pursuant to section 20
3109.052 of the Revised Code and in accordance with sections 21
3127.01 to 3127.53 of the Revised Code, the court shall allocate 22
the parental rights and responsibilities for the care of the 23
minor children of the marriage. Subject to division (D)(2) of 24
this section, the court may allocate the parental rights and 25
responsibilities for the care of the children in either of the 26
following ways: 27

(1) If neither parent files a pleading or motion in 28
accordance with division (G) of this section, if at least one 29
parent files a pleading or motion under that division but no 30
parent who filed a pleading or motion under that division also 31
files a plan for shared parenting, or if at least one parent 32
files both a pleading or motion and a shared parenting plan 33
under that division but no plan for shared parenting is in the 34
best interest of the children, the court, in a manner consistent 35
with the best interest of the children, shall allocate the 36
parental rights and responsibilities for the care of the 37
children primarily to one of the parents, designate that parent 38
as the residential parent and the legal custodian of the child, 39
and divide between the parents the other rights and 40
responsibilities for the care of the children, including, but 41
not limited to, the responsibility to provide support for the 42
children and the right of the parent who is not the residential 43
parent to have continuing contact with the children. 44

(2) If at least one parent files a pleading or motion in 45
accordance with division (G) of this section and a plan for 46
shared parenting pursuant to that division and if a plan for 47
shared parenting is in the best interest of the children and is 48
approved by the court in accordance with division (D)(1) of this 49

section, the court may allocate the parental rights and 50
responsibilities for the care of the children to both parents 51
and issue a shared parenting order requiring the parents to 52
share all or some of the aspects of the physical and legal care 53
of the children in accordance with the approved plan for shared 54
parenting. If the court issues a shared parenting order under 55
this division and it is necessary for the purpose of receiving 56
public assistance, the court shall designate which one of the 57
parents' residences is to serve as the child's home. The child 58
support obligations of the parents under a shared parenting 59
order issued under this division shall be determined in 60
accordance with Chapters 3119., 3121., 3123., and 3125. of the 61
Revised Code. 62

(B) (1) When making the allocation of the parental rights 63
and responsibilities for the care of the children under this 64
section in an original proceeding or in any proceeding for 65
modification of a prior order of the court making the 66
allocation, the court shall take into account that which would 67
be in the best interest of the children. In determining the 68
child's best interest for purposes of making its allocation of 69
the parental rights and responsibilities for the care of the 70
child and for purposes of resolving any issues related to the 71
making of that allocation, the court, in its discretion, may 72
and, upon the request of either party, shall interview in 73
chambers any or all of the involved children regarding their 74
wishes and concerns with respect to the allocation. 75

(2) If the court interviews any child pursuant to division 76
(B) (1) of this section, all of the following apply: 77

(a) The court, in its discretion, may and, upon the motion 78
of either parent, shall appoint a guardian ad litem for the 79

child. 80

(b) The court first shall determine the reasoning ability 81
of the child. If the court determines that the child does not 82
have sufficient reasoning ability to express the child's wishes 83
and concern with respect to the allocation of parental rights 84
and responsibilities for the care of the child, it shall not 85
determine the child's wishes and concerns with respect to the 86
allocation. If the court determines that the child has 87
sufficient reasoning ability to express the child's wishes or 88
concerns with respect to the allocation, it then shall determine 89
whether, because of special circumstances, it would not be in 90
the best interest of the child to determine the child's wishes 91
and concerns with respect to the allocation. If the court 92
determines that, because of special circumstances, it would not 93
be in the best interest of the child to determine the child's 94
wishes and concerns with respect to the allocation, it shall not 95
determine the child's wishes and concerns with respect to the 96
allocation and shall enter its written findings of fact and 97
opinion in the journal. If the court determines that it would be 98
in the best interests of the child to determine the child's 99
wishes and concerns with respect to the allocation, it shall 100
proceed to make that determination. 101

(c) The interview shall be conducted in chambers, and no 102
person other than the child, the child's attorney, the judge, 103
any necessary court personnel, and, in the judge's discretion, 104
the attorney of each parent shall be permitted to be present in 105
the chambers during the interview. 106

(3) No person shall obtain or attempt to obtain from a 107
child a written or recorded statement or affidavit setting forth 108
the child's wishes and concerns regarding the allocation of 109

parental rights and responsibilities concerning the child. No 110
court, in determining the child's best interest for purposes of 111
making its allocation of the parental rights and 112
responsibilities for the care of the child or for purposes of 113
resolving any issues related to the making of that allocation, 114
shall accept or consider a written or recorded statement or 115
affidavit that purports to set forth the child's wishes and 116
concerns regarding those matters. 117

(C) Prior to trial, the court may cause an investigation 118
to be made as to the character, family relations, past conduct, 119
earning ability, and financial worth of each parent and may 120
order the parents and their minor children to submit to medical, 121
psychological, and psychiatric examinations. The report of the 122
investigation and examinations shall be made available to either 123
parent or the parent's counsel of record not less than five days 124
before trial, upon written request. The report shall be signed 125
by the investigator, and the investigator shall be subject to 126
cross-examination by either parent concerning the contents of 127
the report. The court may tax as costs all or any part of the 128
expenses for each investigation. 129

If the court determines that either parent previously has 130
been convicted of or pleaded guilty to any criminal offense 131
involving any act that resulted in a child being a neglected 132
child, that either parent previously has been determined to be 133
the perpetrator of the neglectful act that is the basis of an 134
adjudication that a child is a neglected child, or that there is 135
reason to believe that either parent has acted in a manner 136
resulting in a child being a neglected child, the court shall 137
consider that fact against naming that parent the residential 138
parent and against granting a shared parenting decree. When the 139
court allocates parental rights and responsibilities for the 140

care of children or determines whether to grant shared parenting 141
in any proceeding, it shall consider whether either parent or 142
any member of the household of either parent has been convicted 143
of or pleaded guilty to a violation of section 2919.25 of the 144
Revised Code or a sexually oriented offense involving a victim 145
who at the time of the commission of the offense was a member of 146
the family or household that is the subject of the proceeding, 147
has been convicted of or pleaded guilty to any sexually oriented 148
offense or other offense involving a victim who at the time of 149
the commission of the offense was a member of the family or 150
household that is the subject of the proceeding and caused 151
physical harm to the victim in the commission of the offense, or 152
has been determined to be the perpetrator of the abusive act 153
that is the basis of an adjudication that a child is an abused 154
child. If the court determines that either parent has been 155
convicted of or pleaded guilty to a violation of section 2919.25 156
of the Revised Code or a sexually oriented offense involving a 157
victim who at the time of the commission of the offense was a 158
member of the family or household that is the subject of the 159
proceeding, has been convicted of or pleaded guilty to any 160
sexually oriented offense or other offense involving a victim 161
who at the time of the commission of the offense was a member of 162
the family or household that is the subject of the proceeding 163
and caused physical harm to the victim in the commission of the 164
offense, or has been determined to be the perpetrator of the 165
abusive act that is the basis of an adjudication that a child is 166
an abused child, it may designate that parent as the residential 167
parent and may issue a shared parenting decree or order only if 168
it determines that it is in the best interest of the child to 169
name that parent the residential parent or to issue a shared 170
parenting decree or order and it makes specific written findings 171
of fact to support its determination. 172

(D) (1) (a) Upon the filing of a pleading or motion by 173
either parent or both parents, in accordance with division (G) 174
of this section, requesting shared parenting and the filing of a 175
shared parenting plan in accordance with that division, the 176
court shall comply with division (D) (1) (a) (i), (ii), or (iii) of 177
this section, whichever is applicable: 178

(i) If both parents jointly make the request in their 179
pleadings or jointly file the motion and also jointly file the 180
plan, the court shall review the parents' plan to determine if 181
it is in the best interest of the children. If the court 182
determines that the plan is in the best interest of the 183
children, the court shall approve it. If the court determines 184
that the plan or any part of the plan is not in the best 185
interest of the children, the court shall require the parents to 186
make appropriate changes to the plan to meet the court's 187
objections to it. If changes to the plan are made to meet the 188
court's objections, and if the new plan is in the best interest 189
of the children, the court shall approve the plan. If changes to 190
the plan are not made to meet the court's objections, or if the 191
parents attempt to make changes to the plan to meet the court's 192
objections, but the court determines that the new plan or any 193
part of the new plan still is not in the best interest of the 194
children, the court may reject the portion of the parents' 195
pleadings or deny their motion requesting shared parenting of 196
the children and proceed as if the request in the pleadings or 197
the motion had not been made. The court shall not approve a plan 198
under this division unless it determines that the plan is in the 199
best interest of the children. 200

(ii) If each parent makes a request in the parent's 201
pleadings or files a motion and each also files a separate plan, 202
the court shall review each plan filed to determine if either is 203

in the best interest of the children. If the court determines 204
that one of the filed plans is in the best interest of the 205
children, the court may approve the plan. If the court 206
determines that neither filed plan is in the best interest of 207
the children, the court may order each parent to submit 208
appropriate changes to the parent's plan or both of the filed 209
plans to meet the court's objections, or may select one of the 210
filed plans and order each parent to submit appropriate changes 211
to the selected plan to meet the court's objections. If changes 212
to the plan or plans are submitted to meet the court's 213
objections, and if any of the filed plans with the changes is in 214
the best interest of the children, the court may approve the 215
plan with the changes. If changes to the plan or plans are not 216
submitted to meet the court's objections, or if the parents 217
submit changes to the plan or plans to meet the court's 218
objections but the court determines that none of the filed plans 219
with the submitted changes is in the best interest of the 220
children, the court may reject the portion of the parents' 221
pleadings or deny their motions requesting shared parenting of 222
the children and proceed as if the requests in the pleadings or 223
the motions had not been made. If the court approves a plan 224
under this division, either as originally filed or with 225
submitted changes, or if the court rejects the portion of the 226
parents' pleadings or denies their motions requesting shared 227
parenting under this division and proceeds as if the requests in 228
the pleadings or the motions had not been made, the court shall 229
enter in the record of the case findings of fact and conclusions 230
of law as to the reasons for the approval or the rejection or 231
denial. Division (D)(1)(b) of this section applies in relation 232
to the approval or disapproval of a plan under this division. 233

 (iii) If each parent makes a request in the parent's 234

pleadings or files a motion but only one parent files a plan, or 235
if only one parent makes a request in the parent's pleadings or 236
files a motion and also files a plan, the court in the best 237
interest of the children may order the other parent to file a 238
plan for shared parenting in accordance with division (G) of 239
this section. The court shall review each plan filed to 240
determine if any plan is in the best interest of the children. 241
If the court determines that one of the filed plans is in the 242
best interest of the children, the court may approve the plan. 243
If the court determines that no filed plan is in the best 244
interest of the children, the court may order each parent to 245
submit appropriate changes to the parent's plan or both of the 246
filed plans to meet the court's objections or may select one 247
filed plan and order each parent to submit appropriate changes 248
to the selected plan to meet the court's objections. If changes 249
to the plan or plans are submitted to meet the court's 250
objections, and if any of the filed plans with the changes is in 251
the best interest of the children, the court may approve the 252
plan with the changes. If changes to the plan or plans are not 253
submitted to meet the court's objections, or if the parents 254
submit changes to the plan or plans to meet the court's 255
objections but the court determines that none of the filed plans 256
with the submitted changes is in the best interest of the 257
children, the court may reject the portion of the parents' 258
pleadings or deny the parents' motion or reject the portion of 259
the parents' pleadings or deny their motions requesting shared 260
parenting of the children and proceed as if the request or 261
requests or the motion or motions had not been made. If the 262
court approves a plan under this division, either as originally 263
filed or with submitted changes, or if the court rejects the 264
portion of the pleadings or denies the motion or motions 265
requesting shared parenting under this division and proceeds as 266

if the request or requests or the motion or motions had not been 267
made, the court shall enter in the record of the case findings 268
of fact and conclusions of law as to the reasons for the 269
approval or the rejection or denial. Division (D)(1)(b) of this 270
section applies in relation to the approval or disapproval of a 271
plan under this division. 272

(b) The approval of a plan under division (D)(1)(a)(ii) or 273
(iii) of this section is discretionary with the court. The court 274
shall not approve more than one plan under either division and 275
shall not approve a plan under either division unless it 276
determines that the plan is in the best interest of the 277
children. If the court, under either division, does not 278
determine that any filed plan or any filed plan with submitted 279
changes is in the best interest of the children, the court shall 280
not approve any plan. 281

(c) Whenever possible, the court shall require that a 282
shared parenting plan approved under division (D)(1)(a)(i), 283
(ii), or (iii) of this section ensure the opportunity for both 284
parents to have frequent and continuing contact with the child, 285
unless frequent and continuing contact with any parent would not 286
be in the best interest of the child. 287

(d) If a court approves a shared parenting plan under 288
division (D)(1)(a)(i), (ii), or (iii) of this section, the 289
approved plan shall be incorporated into a final shared 290
parenting decree granting the parents the shared parenting of 291
the children. Any final shared parenting decree shall be issued 292
at the same time as and shall be appended to the final decree of 293
dissolution, divorce, annulment, or legal separation arising out 294
of the action out of which the question of the allocation of 295
parental rights and responsibilities for the care of the 296

children arose. 297

No provisional shared parenting decree shall be issued in 298
relation to any shared parenting plan approved under division 299
(D) (1) (a) (i), (ii), or (iii) of this section. A final shared 300
parenting decree issued under this division has immediate effect 301
as a final decree on the date of its issuance, subject to 302
modification or termination as authorized by this section. 303

(2) If the court finds, with respect to any child under 304
eighteen years of age, that it is in the best interest of the 305
child for neither parent to be designated the residential parent 306
and legal custodian of the child, it may commit the child to a 307
relative of the child or certify a copy of its findings, 308
together with as much of the record and the further information, 309
in narrative form or otherwise, that it considers necessary or 310
as the juvenile court requests, to the juvenile court for 311
further proceedings, and, upon the certification, the juvenile 312
court has exclusive jurisdiction. 313

(E) (1) (a) The court shall not modify a prior decree 314
allocating parental rights and responsibilities for the care of 315
children unless it finds, based on facts that have arisen since 316
the prior decree or that were unknown to the court at the time 317
of the prior decree, that a change has occurred in the 318
circumstances of the child, the child's residential parent, or 319
either of the parents subject to a shared parenting decree, and 320
that the modification is necessary to serve the best interest of 321
the child. In applying these standards, the court shall retain 322
the residential parent designated by the prior decree or the 323
prior shared parenting decree, unless a modification is in the 324
best interest of the child and one of the following applies: 325

(i) The residential parent agrees to a change in the 326

residential parent or both parents under a shared parenting 327
decree agree to a change in the designation of residential 328
parent. 329

(ii) The child, with the consent of the residential parent 330
or of both parents under a shared parenting decree, has been 331
integrated into the family of the person seeking to become the 332
residential parent. 333

(iii) The harm likely to be caused by a change of 334
environment is outweighed by the advantages of the change of 335
environment to the child. 336

(b) One or both of the parents under a prior decree 337
allocating parental rights and responsibilities for the care of 338
children that is not a shared parenting decree may file a motion 339
requesting that the prior decree be modified to give both 340
parents shared rights and responsibilities for the care of the 341
children. The motion shall include both a request for 342
modification of the prior decree and a request for a shared 343
parenting order that complies with division (G) of this section. 344
Upon the filing of the motion, if the court determines that a 345
modification of the prior decree is authorized under division 346
(E) (1) (a) of this section, the court may modify the prior decree 347
to grant a shared parenting order, provided that the court shall 348
not modify the prior decree to grant a shared parenting order 349
unless the court complies with divisions (A) and (D) (1) of this 350
section and, in accordance with those divisions, approves the 351
submitted shared parenting plan and determines that shared 352
parenting would be in the best interest of the children. 353

(2) In addition to a modification authorized under 354
division (E) (1) of this section: 355

(a) Both parents under a shared parenting decree jointly 356
may modify the terms of the plan for shared parenting approved 357
by the court and incorporated by it into the shared parenting 358
decree. Modifications under this division may be made at any 359
time. The modifications to the plan shall be filed jointly by 360
both parents with the court, and the court shall include them in 361
the plan, unless they are not in the best interest of the 362
children. If the modifications are not in the best interests of 363
the children, the court, in its discretion, may reject the 364
modifications or make modifications to the proposed 365
modifications or the plan that are in the best interest of the 366
children. Modifications jointly submitted by both parents under 367
a shared parenting decree shall be effective, either as 368
originally filed or as modified by the court, upon their 369
inclusion by the court in the plan. Modifications to the plan 370
made by the court shall be effective upon their inclusion by the 371
court in the plan. 372

(b) The court may modify the terms of the plan for shared 373
parenting approved by the court and incorporated by it into the 374
shared parenting decree upon its own motion at any time if the 375
court determines that the modifications are in the best interest 376
of the children or upon the request of one or both of the 377
parents under the decree. Modifications under this division may 378
be made at any time. The court shall not make any modification 379
to the plan under this division, unless the modification is in 380
the best interest of the children. 381

(c) The court may terminate a prior final shared parenting 382
decree that includes a shared parenting plan approved under 383
division (D)(1)(a)(i) of this section upon the request of one or 384
both of the parents or whenever it determines that shared 385
parenting is not in the best interest of the children. The court 386

may terminate a prior final shared parenting decree that 387
includes a shared parenting plan approved under division (D)(1) 388
(a)(ii) or (iii) of this section if it determines, upon its own 389
motion or upon the request of one or both parents, that shared 390
parenting is not in the best interest of the children. If 391
modification of the terms of the plan for shared parenting 392
approved by the court and incorporated by it into the final 393
shared parenting decree is attempted under division (E)(2)(a) of 394
this section and the court rejects the modifications, it may 395
terminate the final shared parenting decree if it determines 396
that shared parenting is not in the best interest of the 397
children. 398

(d) Upon the termination of a prior final shared parenting 399
decree under division (E)(2)(c) of this section, the court shall 400
proceed and issue a modified decree for the allocation of 401
parental rights and responsibilities for the care of the 402
children under the standards applicable under divisions (A), 403
(B), and (C) of this section as if no decree for shared 404
parenting had been granted and as if no request for shared 405
parenting ever had been made. 406

(F)(1) In determining the best interest of a child 407
pursuant to this section, whether on an original decree 408
allocating parental rights and responsibilities for the care of 409
children or a modification of a decree allocating those rights 410
and responsibilities, the court shall consider all relevant 411
factors, including, but not limited to: 412

(a) The wishes of the child's parents regarding the 413
child's care; 414

(b) If the court has interviewed the child in chambers 415
pursuant to division (B) of this section regarding the child's 416

wishes and concerns as to the allocation of parental rights and 417
responsibilities concerning the child, the wishes and concerns 418
of the child, as expressed to the court; 419

(c) The child's interaction and interrelationship with the 420
child's parents, siblings, and any other person who may 421
significantly affect the child's best interest; 422

(d) The child's adjustment to the child's home, school, 423
and community; 424

(e) The mental and physical health of all persons involved 425
in the situation; 426

(f) The parent more likely to honor and facilitate court- 427
approved parenting time rights or visitation and companionship 428
rights; 429

(g) Whether either parent has failed to make all child 430
support payments, including all arrearages, that are required of 431
that parent pursuant to a child support order under which that 432
parent is an obligor; 433

(h) Whether either parent or any member of the household 434
of either parent previously has been convicted of or pleaded 435
guilty to any criminal offense involving any act that resulted 436
in a child being an abused child or a neglected child; whether 437
either parent, in a case in which a child has been adjudicated 438
an abused child or a neglected child, previously has been 439
determined to be the perpetrator of the abusive or neglectful 440
act that is the basis of an adjudication; whether either parent 441
or any member of the household of either parent previously has 442
been convicted of or pleaded guilty to a violation of section 443
2919.25 of the Revised Code or a sexually oriented offense 444
involving a victim who at the time of the commission of the 445

offense was a member of the family or household that is the 446
subject of the current proceeding; whether either parent or any 447
member of the household of either parent previously has been 448
convicted of or pleaded guilty to any offense involving a victim 449
who at the time of the commission of the offense was a member of 450
the family or household that is the subject of the current 451
proceeding and caused physical harm to the victim in the 452
commission of the offense; and whether there is reason to 453
believe that either parent has acted in a manner resulting in a 454
child being an abused child or a neglected child; 455

(i) Whether the residential parent or one of the parents 456
subject to a shared parenting decree has continuously and 457
willfully denied the other parent's right to parenting time in 458
accordance with an order of the court; 459

(j) Whether either parent has established a residence, or 460
is planning to establish a residence, outside this state. 461

(2) In determining whether shared parenting is in the best 462
interest of the children, the court shall consider all relevant 463
factors, including, but not limited to, the factors enumerated 464
in division (F) (1) of this section, the factors enumerated in 465
section 3119.23 of the Revised Code, and all of the following 466
factors: 467

(a) The ability of the parents to cooperate and make 468
decisions jointly, with respect to the children; 469

(b) The ability of each parent to encourage the sharing of 470
love, affection, and contact between the child and the other 471
parent; 472

(c) Any history of, or potential for, child abuse, spouse 473
abuse, other domestic violence, or parental kidnapping by either 474

parent; 475

(d) The geographic proximity of the parents to each other, 476
as the proximity relates to the practical considerations of 477
shared parenting; 478

(e) The recommendation of the guardian ad litem of the 479
child, if the child has a guardian ad litem. 480

(3) When allocating parental rights and responsibilities 481
for the care of children, the court shall not give preference to 482
a parent because of that parent's financial status or condition. 483

(4) When allocating parental rights and responsibilities 484
for the care of children, the court shall not consider a 485
previous execution of a host family affidavit under section 486
3109.846 of the Revised Code by a parent. 487

(G) Either parent or both parents of any children may file 488
a pleading or motion with the court requesting the court to 489
grant both parents shared parental rights and responsibilities 490
for the care of the children in a proceeding held pursuant to 491
division (A) of this section. If a pleading or motion requesting 492
shared parenting is filed, the parent or parents filing the 493
pleading or motion also shall file with the court a plan for the 494
exercise of shared parenting by both parents. If each parent 495
files a pleading or motion requesting shared parenting but only 496
one parent files a plan or if only one parent files a pleading 497
or motion requesting shared parenting and also files a plan, the 498
other parent as ordered by the court shall file with the court a 499
plan for the exercise of shared parenting by both parents. The 500
plan for shared parenting shall be filed with the petition for 501
dissolution of marriage, if the question of parental rights and 502
responsibilities for the care of the children arises out of an 503

action for dissolution of marriage, or, in other cases, at a 504
time at least thirty days prior to the hearing on the issue of 505
the parental rights and responsibilities for the care of the 506
children. A plan for shared parenting shall include provisions 507
covering all factors that are relevant to the care of the 508
children, including, but not limited to, provisions covering 509
factors such as physical living arrangements, child support 510
obligations, provision for the children's medical and dental 511
care, school placement, and the parent with which the children 512
will be physically located during legal holidays, school 513
holidays, and other days of special importance. 514

(H) If an appeal is taken from a decision of a court that 515
grants or modifies a decree allocating parental rights and 516
responsibilities for the care of children, the court of appeals 517
shall give the case calendar priority and handle it 518
expeditiously. 519

(I) (1) Upon receipt of an order for active military 520
service in the uniformed services, a parent who is subject to an 521
order allocating parental rights and responsibilities or in 522
relation to whom an action to allocate parental rights and 523
responsibilities is pending and who is ordered for active 524
military service shall notify the other parent who is subject to 525
the order or in relation to whom the case is pending of the 526
order for active military service within three days of receiving 527
the military service order. 528

(2) On receipt of the notice described in division (I) (1) 529
of this section, either parent may apply to the court for a 530
hearing to expedite an allocation or modification proceeding so 531
that the court can issue an order before the parent's active 532
military service begins. The application shall include the date 533

on which the active military service begins. 534

The court shall schedule a hearing upon receipt of the 535
application and hold the hearing not later than thirty days 536
after receipt of the application, except that the court shall 537
give the case calendar priority and handle the case 538
expeditiously if exigent circumstances exist in the case. 539

The court shall not modify a prior decree allocating 540
parental rights and responsibilities unless the court determines 541
that there has been a change in circumstances of the child, the 542
child's residential parent, or either of the parents subject to 543
a shared parenting decree, and that modification is necessary to 544
serve the best interest of the child. The court shall not find 545
past, present, or possible future active military service in the 546
uniformed services to constitute a change in circumstances 547
justifying modification of a prior decree pursuant to division 548
(E) of this section. The court shall make specific written 549
findings of fact to support any modification under this 550
division. 551

(3) Nothing in division (I) of this section shall prevent 552
a court from issuing a temporary order allocating or modifying 553
parental rights and responsibilities for the duration of the 554
parent's active military service. A temporary order shall 555
specify whether the parent's active military service is the 556
basis of the order and shall provide for termination of the 557
temporary order and resumption of the prior order within ten 558
days after receipt of notice pursuant to division (I) (5) of this 559
section, unless the other parent demonstrates that resumption of 560
the prior order is not in the child's best interest. 561

(4) At the request of a parent who is ordered for active 562
military service in the uniformed services and who is a subject 563

of a proceeding pertaining to a temporary order for the 564
allocation or modification of parental rights and 565
responsibilities, the court shall permit the parent to 566
participate in the proceeding and present evidence by electronic 567
means, including communication by telephone, video, or internet 568
to the extent permitted by the rules of the supreme court of 569
Ohio. 570

(5) A parent who is ordered for active military service in 571
the uniformed services and who is a subject of a proceeding 572
pertaining to the allocation or modification of parental rights 573
and responsibilities shall provide written notice to the court, 574
child support enforcement agency, and the other parent of the 575
date of termination of the parent's active military service not 576
later than thirty days after the date on which the service ends. 577

(J) As used in this section: 578

(1) "Abused child" has the same meaning as in section 579
2151.031 of the Revised Code. 580

(2) "Active military service" means service by a member of 581
the uniformed services in compliance with military orders to 582
report for combat operations, contingency operations, 583
peacekeeping operations, a remote tour of duty, or other active 584
service for which the member is required to report unaccompanied 585
by any family member, including any period of illness, recovery 586
from injury, leave, or other lawful absence during that 587
operation, duty, or service. 588

(3) "Neglected child" has the same meaning as in section 589
2151.03 of the Revised Code. 590

(4) "Sexually oriented offense" has the same meaning as in 591
section 2950.01 of the Revised Code. 592

(5) "Uniformed services" means the United States armed 593
forces, the army national guard, and the air national guard or 594
any reserve component thereof, or the commissioned corps of the 595
United States public health service. 596

(K) As used in the Revised Code, "shared parenting" means 597
that the parents share, in the manner set forth in the plan for 598
shared parenting that is approved by the court under division 599
(D) (1) and described in division (L) (6) of this section, all or 600
some of the aspects of physical and legal care of their 601
children. 602

(L) For purposes of the Revised Code: 603

(1) A parent who is granted the care, custody, and control 604
of a child under an order that was issued pursuant to this 605
section prior to April 11, 1991, and that does not provide for 606
shared parenting has "custody of the child" and "care, custody, 607
and control of the child" under the order, and is the 608
"residential parent," the "residential parent and legal 609
custodian," or the "custodial parent" of the child under the 610
order. 611

(2) A parent who primarily is allocated the parental 612
rights and responsibilities for the care of a child and who is 613
designated as the residential parent and legal custodian of the 614
child under an order that is issued pursuant to this section on 615
or after April 11, 1991, and that does not provide for shared 616
parenting has "custody of the child" and "care, custody, and 617
control of the child" under the order, and is the "residential 618
parent," the "residential parent and legal custodian," or the 619
"custodial parent" of the child under the order. 620

(3) A parent who is not granted custody of a child under 621

an order that was issued pursuant to this section prior to April 622
11, 1991, and that does not provide for shared parenting is the 623
"parent who is not the residential parent," the "parent who is 624
not the residential parent and legal custodian," or the 625
"noncustodial parent" of the child under the order. 626

(4) A parent who is not primarily allocated the parental 627
rights and responsibilities for the care of a child and who is 628
not designated as the residential parent and legal custodian of 629
the child under an order that is issued pursuant to this section 630
on or after April 11, 1991, and that does not provide for shared 631
parenting is the "parent who is not the residential parent," the 632
"parent who is not the residential parent and legal custodian," 633
or the "noncustodial parent" of the child under the order. 634

(5) Unless the context clearly requires otherwise, if an 635
order is issued by a court pursuant to this section and the 636
order provides for shared parenting of a child, both parents 637
have "custody of the child" or "care, custody, and control of 638
the child" under the order, to the extent and in the manner 639
specified in the order. 640

(6) Unless the context clearly requires otherwise and 641
except as otherwise provided in the order, if an order is issued 642
by a court pursuant to this section and the order provides for 643
shared parenting of a child, each parent, regardless of where 644
the child is physically located or with whom the child is 645
residing at a particular point in time, as specified in the 646
order, is the "residential parent," the "residential parent and 647
legal custodian," or the "custodial parent" of the child. 648

(7) Unless the context clearly requires otherwise and 649
except as otherwise provided in the order, a designation in the 650
order of a parent as the residential parent for the purpose of 651

determining the school the child attends, as the custodial 652
parent for purposes of claiming the child as a dependent 653
pursuant to section 152(e) of the "Internal Revenue Code of 654
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or as the 655
residential parent for purposes of receiving public assistance 656
pursuant to division (A)(2) of this section, does not affect the 657
designation pursuant to division (L)(6) of this section of each 658
parent as the "residential parent," the "residential parent and 659
legal custodian," or the "custodial parent" of the child. 660

(M) The court shall require each parent of a child to file 661
an affidavit attesting as to whether the parent, and the members 662
of the parent's household, have been convicted of or pleaded 663
guilty to any of the offenses identified in divisions (C) and 664
(F)(1)(h) of this section. 665

Sec. 3109.78. (A) ~~No person shall create a power of~~ 666
~~attorney under section 3109.52 of the Revised Code or execute a~~ 667
~~caretaker authorization affidavit under section 3109.67 of the~~ 668
~~Revised Code for~~ For the purpose of enrolling the child in a 669
school or school district so that the child may participate in 670
the academic or interscholastic athletic programs provided by 671
the school or school district, no person shall do any of the 672
following: 673

(1) Create a power of attorney under section 3109.52 of 674
the Revised Code; 675

(2) Execute a caretaker authorization affidavit under 676
section 3109.67 of the Revised Code; 677

(3) Execute a host family affidavit under section 3109.846 678
of the Revised Code. 679

(B) A person who violates division (A) of this section is 680

in violation of section 2921.13 of the Revised Code and is
guilty of falsification, a misdemeanor of the first degree.

(C) A power of attorney created, or ~~an~~ a caretaker
authorization affidavit or host family affidavit executed, in
violation of this section is void as of the date of its creation
or execution.

Sec. 3109.79. (A) As used in this section, "administrative
child support order" and "court child support order" have the
same meanings as in section 3119.01 of the Revised Code.

~~A power of attorney created under section 3109.52 of the~~
~~Revised Code or a caretaker authorization affidavit executed~~
~~under section 3109.67 of the Revised Code shall not affect the~~

(B) The enforcement of an administrative child support order or
court child support order, unless a child support enforcement
agency, with respect to an administrative child support order,
or a court, with respect to either order, issues an order
providing otherwise, shall not be affected by any of the
following:

(1) A power of attorney created under section 3109.52 of
the Revised Code;

(2) A caretaker authorization affidavit executed under
section 3109.67 of the Revised Code;

(3) A host family affidavit executed under section
3109.846 of the Revised Code.

Sec. 3109.80. Only one power of attorney created under
section 3109.52 of the Revised Code ~~or~~ , one caretaker
authorization executed under section 3109.67 of the Revised
Code, or host family affidavit executed under section 3109.84 of
the Revised Code may be in effect for a child at one time.

Sec. 3109.84. As used in sections 3109.84 to 3109.8415 of 710
the Revised Code: 711

(A) "Abused child" has the same meaning as in section 712
2151.031 of the Revised Code. 713

(B) "Active military service" has the same meaning as in 714
section 3109.04 of the Revised Code. 715

(C) "Custodian" means an individual with legal custody of 716
a child. 717

(D) "Dependent child" has the same meaning as in section 718
2151.04 of the Revised Code. 719

(E) "Guardian" means an individual granted authority by a 720
probate court pursuant to Chapter 2111. of the Revised Code to 721
exercise parental rights over a child to the extent provided in 722
the court's order and subject to the residual parental rights, 723
privileges, and responsibilities of the child's parents. 724

(F) "Host family" means any individual authorized to 725
exercise temporary care, physical custody, and control of a 726
child through the execution of a host family affidavit. 727

(G) "Neglected child" has the same meaning as in section 728
2151.03 of the Revised Code. 729

(H) "Qualified nonprofit organization" means a private 730
association, organization, corporation, or other entity that is 731
exempt from federal income taxation under section 501(a) and is 732
described in section 501(c) of the "Internal Revenue Code of 733
1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and that is 734
able to meet the statutory requirements for host family 735
affidavit assistance. 736

Sec. 3109.841. The parent, guardian, or custodian of a 737

child may execute a host family affidavit that is substantially 738
in the form set forth in section 3109.8415 of the Revised Code 739
to delegate to a person the authority to exercise temporary 740
care, physical custody, and control of the child, including the 741
ability to enroll the child in school, to obtain from the school 742
district educational and behavioral information about the child, 743
to consent to all school-related matters regarding the child, 744
and to consent to medical, psychological, or dental treatment 745
for the child. 746

Sec. 3109.842. The host family that signs an affidavit 747
shall exercise authorized care, custody, and control of the 748
child on a continuous basis without compensation, except that 749
the host family may receive reimbursement for actual expenses of 750
providing temporary care for the child while the host family 751
affidavit is in force. 752

Sec. 3109.843. The host family shall not be subject to 753
foster care and adoption requirements under Chapter 3107. of the 754
Revised Code, child placement requirements under Chapter 5103. 755
of the Revised Code, or child day-care requirements under 756
Chapter 5104. of the Revised Code. 757

Sec. 3109.844. (A) A qualified nonprofit organization may 758
establish a program that provides resources and services to 759
assist, support, and educate parents, guardians, custodians, 760
host families, children, and any person involved in the creation 761
and execution of a host family affidavit. 762

(B) Any program established by a qualified nonprofit 763
organization for the purpose described in division (A) of this 764
section shall do all of the following: 765

(1) Conduct a criminal background check on the intended 766

host family and all adults residing in the host family's 767
household; 768

(2) Access the statewide automated child welfare 769
information system in accordance with sections 5101.13 to 770
5101.134 of the Revised Code in order to conduct a child neglect 771
and abuse background check on the intended host family and all 772
adults residing in the host family's household; 773

(3) Ensure that the host family is trained on the rights, 774
duties, responsibilities, and limitations conferred through the 775
host family affidavit; 776

(4) Conduct regular supervision of a child who is the 777
subject of the host family affidavit while the affidavit is in 778
force. 779

(C) Any program established by a qualified nonprofit 780
organization for the purpose described in division (A) of this 781
section shall not be subject to foster care and adoption 782
requirements under Chapter 3107. of the Revised Code, child 783
placement requirements under Chapter 5103. of the Revised Code, 784
or child day-care requirements under Chapter 5104. of the 785
Revised Code. 786

Sec. 3109.845. (A) (1) A host family affidavit executed 787
under section 3109.846 of the Revised Code shall be valid for a 788
period not longer than three hundred sixty-five days, except as 789
provided in division (A) (2) of this section. 790

(2) A parent, guardian, or custodian subject to an order 791
for active military service may execute a host family affidavit 792
that shall be valid for a period not longer than the term of 793
active duty service plus thirty days. 794

(B) If necessary, another host family affidavit may be 795

executed for a period of time in accordance with division (A) (1) 796
or (2) of this section following the expiration of the previous 797
affidavit. 798

Sec. 3109.846. A host family affidavit described in 799
section 3109.841 of the Revised Code is executed when the form 800
described in section 3109.8415 of the Revised Code is completed, 801
signed in accordance with section 3109.847 of the Revised Code, 802
and notarized by an Ohio notary public. 803

Sec. 3109.847. (A) A host family affidavit shall be signed 804
by the host family as described in division (B) (1) of this 805
section and the parent, guardian, or custodian as described in 806
division (B) (2) of this section. 807

(B) (1) The signatory or signatories for the host family on 808
a host family affidavit shall be one of the following: 809

(a) A single adult; 810

(b) Both spouses, if a married couple is appointed. 811

(2) The signatory or signatories for the parent, guardian, 812
or custodian on a host family affidavit shall be one of the 813
following: 814

(a) A legal guardian or custodian; 815

(b) Both parents, except as provided in division (B) (2) (c) 816
of this section; 817

(c) The custodial parent, if one of the following apply: 818

(i) If the child's other parent is deceased; 819

(ii) If a parent has made reasonable attempts to locate 820
the child's other parent but has been unable to do so; 821

(iii) If paternity has not been established with regard to 822

the child and the child's father; 823

(iv) If the child is the subject of a custody order, and 824
the other parent is: 825

(I) A parent who is prohibited from receiving a notice of 826
relocation in accordance with section 3109.051 of the Revised 827
Code; 828

(II) A parent whose parental rights have been terminated 829
by order of a juvenile court under Chapter 2151. of the Revised 830
Code. 831

Sec. 3109.848. The execution of a host family affidavit 832
under section 3109.846 of the Revised Code shall not do any of 833
the following: 834

(A) Affect the rights and responsibilities of the parent, 835
guardian, or custodian regarding the child; 836

(B) Supersede any court order regarding the care and 837
custody of the child; 838

(C) Grant legal custody of the child to the host family; 839

(D) Grant authority to the host family to consent to the 840
marriage or adoption of the child. 841

Sec. 3109.849. (A) A host family affidavit as described 842
under section 3109.841 of the Revised Code may not be executed 843
while any of the following proceedings are pending regarding the 844
child: 845

(1) A proceeding for the appointment of a guardian for, or 846
the adoption of, the child; 847

(2) A juvenile proceeding in which any of the following 848
apply: 849

(a) The temporary, permanent, or legal custody of the 850
child or the placement of the child in a planned permanent 851
living arrangement has been requested. 852

(b) The child is the subject of an ex parte emergency 853
custody order issued under division (D) of section 2151.31 of 854
the Revised Code, and no hearing has yet been held regarding the 855
child under division (A) of section 2151.314 of the Revised 856
Code. 857

(c) The child is the subject of a temporary custody order 858
issued under section 2151.33 of the Revised Code. 859

(3) A proceeding for divorce, dissolution, legal 860
separation, annulment, or allocation of parental rights and 861
responsibilities regarding the child. 862

(B) A court with applicable jurisdiction of the child 863
subject to any pending proceedings as described in division (A) 864
of this section may allow the execution of a host family 865
affidavit if the court determines that it is in the best 866
interests of the child. 867

Sec. 3109.8410. (A)(1) All of the following, with respect 868
to a host family affidavit executed under section 3109.846 of 869
the Revised Code, are immune from any criminal or civil 870
liability for injury, death, or loss to persons or property that 871
might otherwise be incurred or imposed solely as a result of the 872
following actions: 873

(a) Any person described in section 3109.8414 of the 874
Revised Code who, in good faith, relies on or takes action in 875
reliance on a host family affidavit; 876

(b) A licensed social worker who, in their clinical 877
judgment, provides services or takes action in relation to the 878

creation or implementation of a host family affidavit; 879

(c) Any staff or volunteer of a qualified nonprofit 880
organization who, in good faith, provides services or takes any 881
reasonable action in relation to the creation or implementation 882
of a host family affidavit; 883

(d) A host family who, in good faith, makes a decision or 884
takes action that a reasonable and prudent parent would make or 885
take pursuant to the authority granted to the host family under 886
a host family affidavit; 887

(2) Any person described in division (A) (1) of this 888
section is not subject to any disciplinary action from an entity 889
that licenses or certifies the person. 890

(B) Any medical, psychological, or dental treatment 891
provided to a child in reliance on a host family affidavit shall 892
be considered to have been provided in good faith if the person 893
providing the treatment had no actual knowledge of opposition by 894
the parent, guardian, or custodian. 895

(C) This section does not provide immunity from civil or 896
criminal liability to a person for actions that are wanton, 897
reckless, or inconsistent with the ordinary standard of care 898
required to be exercised by anyone acting in the same capacity 899
as the person. 900

(D) Nothing in this section shall preclude any 901
investigation of suspected child abuse or neglect by a public 902
children services agency or law enforcement agency. 903

Sec. 3109.8411. (A) A child who is the subject of a host 904
family affidavit shall not be defined as an abandoned, abused, 905
dependent, or neglected child while the host family affidavit is 906
in force. 907

(B) An investigation under section 2151.421 of the Revised 908
Code may result if the parent, guardian, or custodian of the 909
child fails to do any of the following: 910

(1) Take physical custody of the child after the host 911
family affidavit has expired; 912

(2) Execute another host family affidavit after a host 913
family affidavit expires. 914

Sec. 3109.8412. (A) A host family affidavit may be 915
terminated at any time by any signatories of the affidavit. 916

(B) An executed host family affidavit shall terminate on 917
the occurrence of whichever of the following comes first: 918

(1) The parent, guardian, or custodian terminates the host 919
family affidavit; 920

(2) The child ceases to reside with the host family; 921

(3) The death of the child who is the subject of the 922
affidavit; 923

(4) The death of the host family who signed the affidavit. 924

Sec. 3109.8413. The child who is the subject of the 925
affidavit shall be returned to the physical custody of the 926
parent, guardian, or custodian of the child within seventy-two 927
hours of termination. 928

Sec. 3109.8414. Upon the termination of a host family 929
affidavit, the host family shall notify all of the following not 930
later than one week after the date the affidavit terminates: 931

(A) The school district in which the child attends school; 932

(B) The child's health care providers; 933

(C) The assisting qualified nonprofit organization, if 934
applicable; 935

(D) Any other person or entity that has an ongoing 936
relationship with the child such that the person or entity would 937
reasonably rely on the host family affidavit unless notified of 938
the termination. 939

Sec. 3109.8415. The following form is legally sufficient 940
for use in executing a host family affidavit in accordance with 941
section 3109.846 of the Revised Code: 942

HOST FAMILY AFFIDAVIT 943

Use of this affidavit is authorized by sections 3109.84 to 944
3109.8414 of the Ohio Revised Code. 945

(1) I hereby certify that I am the parent or parents, 946
guardian, or custodian of the following minor child or children: 947

Child's name:_____ 948

Child's birthdate:_____ 949

Child's name:_____ 950

Child's birthdate:_____ 951

Child's name:_____ 952

Child's birthdate:_____ 953

(2) I hereby designate the following person or persons as 954
the host family for each minor child named above: 955

Name:_____ 956

Home address:_____ 957

Home phone:_____ 958

Work phone:_____ 959

Cell phone:_____ 960

961

Name:_____ 962

Home address:_____ 963

Home phone:_____ 964

Work phone:_____ 965

Cell phone:_____ 966

967

(3) (a) I hereby delegate to the host family all of my 968
power and authority regarding the care, custody, and property of 969
each minor child named above, including but not limited to the 970
right to enroll the child in school, inspect and obtain copies 971
of education records and other records concerning the child, the 972
right to attend school activities and other functions concerning 973
the child, and the right to give or withhold any consent or 974
waiver with respect to school activities, medical and dental 975
treatment, and any other activity, function, or treatment that 976
may concern the child. This delegation shall not include the 977
power or authority to consent to marriage or adoption of the 978
child, the performance or inducement of an abortion on or for 979
the child, or the termination of parental rights to the child. 980

OR 981

(b) I delegate to the host family the following specific 982
powers and responsibilities (write in): 983

984

985

(4) (a) This host family appointment is effective for a
period not to exceed one year, beginning, _____, 20____,
and ending _____, 20____. I reserve the right to revoke this
authority at any time.

OR

(b) I am a parent ordered for active military service as
defined by section 3109.04 of the Revised Code. My active duty
service is scheduled to begin on _____, 20____, and is
estimated to end on _____, 20____. I acknowledge that in
no event may this delegation of power last more than one year or
the term on my active duty plus thirty days, whichever is
longer.

This appointment is made this _____ day of _____,
20____.

Appointing parent(s), custodian, or guardian:

Signature: _____ Date: _____

Signature: _____ Date: _____

Appointed host family:

Signature: _____ Date: _____

Signature: _____ Date: _____

State of Ohio _____

County of _____

ACKNOWLEDGEMENT OF NOTARY PUBLIC

Before me, the undersigned, a Notary Public, in and for
said County and State on this _____ day of _____, 20____,
personally appeared _____ (Name of Parent/Legal
Custodian) and _____ (Name of Host Family), to
me known to be the identical persons who executed this
instrument and acknowledged to me that each executed the same as
his or her free and voluntary act and deed for the uses and
purposes set forth in the instrument.

Witness my hand and official seal the day and year above
written.

Signature of notarial officer

Seal, if any

Title and Rank

My commission expires:

NOTICES:

1. The signatures of the parent or parents, guardian, and
custodian, as applicable, and the host family shall be notarized
by an Ohio notary public.

2. This affidavit does not affect the rights of the
child's parents, guardian, or custodian regarding the care,
physical custody, and control of the child, and does not give

the host family legal custody of the child. 1038

3. A person or entity that relies on this affidavit, in 1039
good faith, has no obligation to make any further inquiry or 1040
investigation. 1041

4. This affidavit terminates on the occurrence of 1042
whichever of the following occurs first: (1) the child ceases to 1043
live with the host family who signs this form; (2) the parent, 1044
guardian, or custodian of the child acts to revoke or withdraw 1045
the host family affidavit; (3) the host family voluntarily 1046
returns the child to the physical custody of the parent, 1047
guardian, or custodian; (4) the affidavit is terminated by court 1048
order; (5) the death of the host family; (6) the death of the 1049
child who is the subject of the affidavit; or (7) the death of 1050
the parent, guardian, or custodian who executed the affidavit. 1051

5. If this affidavit terminates other than by the death of 1052
the host family, the host family shall notify any person or 1053
entity that has an ongoing relationship with the child and any 1054
person or entity who would reasonably rely on the affidavit 1055
unless notified of the termination. The host family shall make 1056
the notifications not later than one week after the date the 1057
affidavit terminates. 1058

6. The decision of a host family to consent to or to 1059
refuse medical treatment or school enrollment for a child is 1060
superseded by a contrary decision of a parent, custodian, or 1061
guardian of the child, unless the decision of the parent, 1062
guardian, or custodian would jeopardize the life, health, or 1063
safety of the child. 1064

Additional information: 1065

To Host Families: 1066

1. If the child's parent, guardian, or custodian 1067
terminates the host family affidavit, the host family must 1068
return the child to the custody of the parent, guardian, or 1069
custodian within seventy-two hours of receiving notification of 1070
the termination of the host family affidavit. 1071

2. If the child stops living with the host family, the 1072
host family is required to notify any person or entity that has 1073
an ongoing relationship with you or the child, including any 1074
qualified nonprofit organization that assisted with the 1075
affidavit, such that the person or entity would reasonably rely 1076
on the affidavit unless notified. The notifications must be made 1077
not later than one week after the child stops living with you. 1078

To school officials: 1079

1. This affidavit, properly completed and notarized, 1080
authorizes the child in question to attend school in the 1081
district in which the host family who signed this affidavit 1082
resides and the host family is authorized to provide consent in 1083
all school-related matters and to discuss with the school 1084
district the child's educational progress. This affidavit does 1085
not preclude the parent, guardian, or custodian of the child 1086
from having access to all school records pertinent to the child. 1087

2. The school district may require additional reasonable 1088
evidence that the host family lives at the address provided in 1089
the affidavit. 1090

3. A school district or school official that reasonably 1091
and in good faith relies on this affidavit has no obligation to 1092
make any further inquiry or investigation. 1093

4. A parent, guardian, or custodian may revoke or withdraw 1094
this affidavit at any time. 1095

To health care providers: 1096

1. A person or entity that acts in good faith reliance on 1097
this affidavit to provide medical, psychological, or dental 1098
treatment, without actual knowledge of facts contrary to those 1099
stated in the affidavit, is not subject to criminal liability or 1100
to civil liability to any person or entity, and is not subject 1101
to professional disciplinary action, solely for such reliance if 1102
the applicable portions of the affidavit are signed by the 1103
parent(s), guardian, or custodian and the host family and 1104
notarized. 1105

2. The decision of a host family shall be honored by a 1106
health care facility or practitioner, school district, or school 1107
official unless the health care facility or practitioner or 1108
educational facility or official has actual knowledge that a 1109
parent, guardian, or custodian of a child has made a 1110
contravening decision to consent to or to refuse medical 1111
treatment for the child. 1112

3. A parent, guardian, or custodian may revoke or withdraw 1113
this affidavit at any time. 1114

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of 1115
the Revised Code: 1116

(A) "Alternative public provider" means either of the 1117
following providers that agrees to enroll a child in the 1118
provider's special education program to implement the child's 1119
individualized education program and to which the eligible 1120
applicant owes fees for the services provided to the child: 1121

(1) A school district that is not the school district in 1122
which the child is entitled to attend school or the child's 1123
school district of residence, if different; 1124

(2) A public entity other than a school district. 1125

(B) "Child with a disability" and "individualized 1126
education program" have the same meanings as in section 3323.01 1127
of the Revised Code. 1128

(C) "Eligible applicant" means any of the following: 1129

(1) Either of the natural or adoptive parents of a 1130
qualified special education child, except as otherwise specified 1131
in this division. When the marriage of the natural or adoptive 1132
parents of the student has been terminated by a divorce, 1133
dissolution of marriage, or annulment, or when the natural or 1134
adoptive parents of the student are living separate and apart 1135
under a legal separation decree, and a court has issued an order 1136
allocating the parental rights and responsibilities with respect 1137
to the child, "eligible applicant" means the residential parent 1138
as designated by the court. If the court issues a shared 1139
parenting decree, "eligible applicant" means either parent. 1140
"Eligible applicant" does not mean a parent whose custodial 1141
rights have been terminated. 1142

(2) The custodian of a qualified special education child, 1143
when a court has granted temporary, legal, or permanent custody 1144
of the child to an individual other than either of the natural 1145
or adoptive parents of the child or to a government agency; 1146

(3) The guardian of a qualified special education child, 1147
when a court has appointed a guardian for the child; 1148

(4) The grandparent person who has the care, physical 1149
custody, and control of a qualified special education child, ~~7~~ 1150
~~when the grandparent is the child's attorney in fact under~~ 1151
authorized by the execution of a power of attorney executed 1152
under sections 3109.51 to 3109.62 of the Revised Code ~~or when~~ 1153

~~the grandparent has executed, a caregiver caretaker~~ 1154
authorization affidavit under sections 3109.65 to 3109.73 of the 1155
Revised Code, or a host family affidavit under section 3109.846 1156
of the Revised Code; 1157

(5) The surrogate parent appointed for a qualified special 1158
education child pursuant to division (B) of section 3323.05 and 1159
section 3323.051 of the Revised Code; 1160

(6) A qualified special education child, if the child does 1161
not have a custodian or guardian and the child is at least 1162
eighteen years of age. 1163

(D) "Entitled to attend school" means entitled to attend 1164
school in a school district under sections 3313.64 and 3313.65 1165
of the Revised Code. 1166

(E) "Formula ADM" and "formula amount" have the same 1167
meanings as in section 3317.02 of the Revised Code. 1168

(F) "Qualified special education child" is a child for 1169
whom all of the following conditions apply: 1170

(1) The child is at least five years of age and less than 1171
twenty-two years of age. 1172

(2) The school district in which the child is entitled to 1173
attend school, or the child's school district of residence if 1174
different, has identified the child as a child with a 1175
disability. 1176

(3) The school district in which the child is entitled to 1177
attend school, or the child's school district of residence if 1178
different, has developed an individualized education program 1179
under Chapter 3323. of the Revised Code for the child. 1180

(4) The child either: 1181

(a) Was enrolled in the schools of the school district in 1182
which the child is entitled to attend school in any grade from 1183
kindergarten through twelve in the school year prior to the 1184
school year in which a scholarship is first sought for the 1185
child; 1186

(b) Is eligible to enter school in any grade kindergarten 1187
through twelve in the school district in which the child is 1188
entitled to attend school in the school year in which a 1189
scholarship is first sought for the child. 1190

(5) The department of education has not approved a 1191
scholarship for the child under the educational choice 1192
scholarship pilot program, under sections 3310.01 to 3310.17 of 1193
the Revised Code, the autism scholarship program, under section 1194
3310.41 of the Revised Code, or the pilot project scholarship 1195
program, under sections 3313.974 to 3313.979 of the Revised Code 1196
for the same school year in which a scholarship under the Jon 1197
Peterson special needs scholarship program is sought. 1198

(6) The child and the child's parents are in compliance 1199
with the state compulsory attendance law under Chapter 3321. of 1200
the Revised Code. 1201

(G) "Registered private provider" means a nonpublic school 1202
or other nonpublic entity that has been registered by the 1203
superintendent of public instruction under section 3310.58 of 1204
the Revised Code. 1205

(H) "Scholarship" means a scholarship awarded under the 1206
Jon Peterson special needs scholarship program pursuant to 1207
sections 3310.51 to 3310.64 of the Revised Code. 1208

(I) "School district of residence" has the same meaning as 1209
in section 3323.01 of the Revised Code. A community school 1210

established under Chapter 3314. of the Revised Code is not a 1211
"school district of residence" for purposes of sections 3310.51 1212
to 3310.64 of the Revised Code. 1213

(J) "School year" has the same meaning as in section 1214
3313.62 of the Revised Code. 1215

(K) "Special education program" means a school or facility 1216
that provides special education and related services to children 1217
with disabilities. 1218

Sec. 3313.64. (A) As used in this section and in section 1219
3313.65 of the Revised Code: 1220

(1) (a) Except as provided in division (A) (1) (b) of this 1221
section, "parent" means either parent, unless the parents are 1222
separated or divorced or their marriage has been dissolved or 1223
annulled, in which case "parent" means the parent who is the 1224
residential parent and legal custodian of the child. When a 1225
child is in the legal custody of a government agency or a person 1226
other than the child's natural or adoptive parent, "parent" 1227
means the parent with residual parental rights, privileges, and 1228
responsibilities. When a child is in the permanent custody of a 1229
government agency or a person other than the child's natural or 1230
adoptive parent, "parent" means the parent who was divested of 1231
parental rights and responsibilities for the care of the child 1232
and the right to have the child live with the parent and be the 1233
legal custodian of the child and all residual parental rights, 1234
privileges, and responsibilities. 1235

(b) When a child is the subject of a power of attorney 1236
executed under sections 3109.51 to 3109.62 of the Revised Code, 1237
"parent" means the grandparent designated as attorney in fact 1238
under the power of attorney. When a child is the subject of a 1239

caretaker authorization affidavit executed under sections 1240
3109.64 to 3109.73 of the Revised Code, "parent" means the 1241
grandparent that executed the affidavit. When a child is the 1242
subject of a host family affidavit executed under section 1243
3109.846 of the Revised Code, "parent" means the person that 1244
executed the host family affidavit. 1245

(2) "Legal custody," "permanent custody," and "residual 1246
parental rights, privileges, and responsibilities" have the same 1247
meanings as in section 2151.011 of the Revised Code. 1248

(3) "School district" or "district" means a city, local, 1249
or exempted village school district and excludes any school 1250
operated in an institution maintained by the department of youth 1251
services. 1252

(4) Except as used in division (C)(2) of this section, 1253
"home" means a home, institution, foster home, group home, or 1254
other residential facility in this state that receives and cares 1255
for children, to which any of the following applies: 1256

(a) The home is licensed, certified, or approved for such 1257
purpose by the state or is maintained by the department of youth 1258
services. 1259

(b) The home is operated by a person who is licensed, 1260
certified, or approved by the state to operate the home for such 1261
purpose. 1262

(c) The home accepted the child through a placement by a 1263
person licensed, certified, or approved to place a child in such 1264
a home by the state. 1265

(d) The home is a children's home created under section 1266
5153.21 or 5153.36 of the Revised Code. 1267

- (5) "Agency" means all of the following: 1268
- (a) A public children services agency; 1269
- (b) An organization that holds a certificate issued by the 1270
Ohio department of job and family services in accordance with 1271
the requirements of section 5103.03 of the Revised Code and 1272
assumes temporary or permanent custody of children through 1273
commitment, agreement, or surrender, and places children in 1274
family homes for the purpose of adoption; 1275
- (c) Comparable agencies of other states or countries that 1276
have complied with applicable requirements of section 2151.39 of 1277
the Revised Code or as applicable, sections 5103.20 to 5103.22 1278
or 5103.23 to 5103.237 of the Revised Code. 1279
- (6) A child is placed for adoption if either of the 1280
following occurs: 1281
- (a) An agency to which the child has been permanently 1282
committed or surrendered enters into an agreement with a person 1283
pursuant to section 5103.16 of the Revised Code for the care and 1284
adoption of the child. 1285
- (b) The child's natural parent places the child pursuant 1286
to section 5103.16 of the Revised Code with a person who will 1287
care for and adopt the child. 1288
- (7) "Preschool child with a disability" has the same 1289
meaning as in section 3323.01 of the Revised Code. 1290
- (8) "Child," unless otherwise indicated, includes 1291
preschool children with disabilities. 1292
- (9) "Active duty" means active duty pursuant to an 1293
executive order of the president of the United States, an act of 1294
the congress of the United States, or section 5919.29 or 5923.21 1295

of the Revised Code. 1296

(B) Except as otherwise provided in section 3321.01 of the 1297
Revised Code for admittance to kindergarten and first grade, a 1298
child who is at least five but under twenty-two years of age and 1299
any preschool child with a disability shall be admitted to 1300
school as provided in this division. 1301

(1) A child shall be admitted to the schools of the school 1302
district in which the child's parent resides. 1303

(2) Except as provided in division (B) of section 2151.362 1304
and section 3317.30 of the Revised Code, a child who does not 1305
reside in the district where the child's parent resides shall be 1306
admitted to the schools of the district in which the child 1307
resides if any of the following applies: 1308

(a) The child is in the legal or permanent custody of a 1309
government agency or a person other than the child's natural or 1310
adoptive parent. 1311

(b) The child resides in a home. 1312

(c) The child requires special education. 1313

(3) A child who is not entitled under division (B) (2) of 1314
this section to be admitted to the schools of the district where 1315
the child resides and who is residing with a resident of this 1316
state with whom the child has been placed for adoption shall be 1317
admitted to the schools of the district where the child resides 1318
unless either of the following applies: 1319

(a) The placement for adoption has been terminated. 1320

(b) Another school district is required to admit the child 1321
under division (B) (1) of this section. 1322

Division (B) of this section does not prohibit the board 1323
of education of a school district from placing a child with a 1324
disability who resides in the district in a special education 1325
program outside of the district or its schools in compliance 1326
with Chapter 3323. of the Revised Code. 1327

(C) A district shall not charge tuition for children 1328
admitted under division (B) (1) or (3) of this section. If the 1329
district admits a child under division (B) (2) of this section, 1330
tuition shall be paid to the district that admits the child as 1331
provided in divisions (C) (1) to (3) of this section, unless 1332
division (C) (4) of this section applies to the child: 1333

(1) If the child receives special education in accordance 1334
with Chapter 3323. of the Revised Code, the school district of 1335
residence, as defined in section 3323.01 of the Revised Code, 1336
shall pay tuition for the child in accordance with section 1337
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 1338
regardless of who has custody of the child or whether the child 1339
resides in a home. 1340

(2) For a child that does not receive special education in 1341
accordance with Chapter 3323. of the Revised Code, except as 1342
otherwise provided in division (C) (2) (d) of this section, if the 1343
child is in the permanent or legal custody of a government 1344
agency or person other than the child's parent, tuition shall be 1345
paid by: 1346

(a) The district in which the child's parent resided at 1347
the time the court removed the child from home or at the time 1348
the court vested legal or permanent custody of the child in the 1349
person or government agency, whichever occurred first; 1350

(b) If the parent's residence at the time the court 1351

removed the child from home or placed the child in the legal or 1352
permanent custody of the person or government agency is unknown, 1353
tuition shall be paid by the district in which the child resided 1354
at the time the child was removed from home or placed in legal 1355
or permanent custody, whichever occurred first; 1356

(c) If a school district cannot be established under 1357
division (C) (2) (a) or (b) of this section, tuition shall be paid 1358
by the district determined as required by section 2151.362 of 1359
the Revised Code by the court at the time it vests custody of 1360
the child in the person or government agency; 1361

(d) If at the time the court removed the child from home 1362
or vested legal or permanent custody of the child in the person 1363
or government agency, whichever occurred first, one parent was 1364
in a residential or correctional facility or a juvenile 1365
residential placement and the other parent, if living and not in 1366
such a facility or placement, was not known to reside in this 1367
state, tuition shall be paid by the district determined under 1368
division (D) of section 3313.65 of the Revised Code as the 1369
district required to pay any tuition while the parent was in 1370
such facility or placement; 1371

(e) If the department of education has determined, 1372
pursuant to division (A) (2) of section 2151.362 of the Revised 1373
Code, that a school district other than the one named in the 1374
court's initial order, or in a prior determination of the 1375
department, is responsible to bear the cost of educating the 1376
child, the district so determined shall be responsible for that 1377
cost. 1378

(3) If the child is not in the permanent or legal custody 1379
of a government agency or person other than the child's parent 1380
and the child resides in a home, tuition shall be paid by one of 1381

the following: 1382

(a) The school district in which the child's parent 1383
resides; 1384

(b) If the child's parent is not a resident of this state, 1385
the home in which the child resides. 1386

(4) Division (C) (4) of this section applies to any child 1387
who is admitted to a school district under division (B) (2) of 1388
this section, resides in a home that is not a foster home, a 1389
home maintained by the department of youth services, a detention 1390
facility established under section 2152.41 of the Revised Code, 1391
or a juvenile facility established under section 2151.65 of the 1392
Revised Code, receives educational services at the home or 1393
facility in which the child resides pursuant to a contract 1394
between the home or facility and the school district providing 1395
those services, and does not receive special education. 1396

In the case of a child to which division (C) (4) of this 1397
section applies, the total educational cost to be paid for the 1398
child shall be determined by a formula approved by the 1399
department of education, which formula shall be designed to 1400
calculate a per diem cost for the educational services provided 1401
to the child for each day the child is served and shall reflect 1402
the total actual cost incurred in providing those services. The 1403
department shall certify the total educational cost to be paid 1404
for the child to both the school district providing the 1405
educational services and, if different, the school district that 1406
is responsible to pay tuition for the child. The department 1407
shall deduct the certified amount from the state basic aid funds 1408
payable under Chapter 3317. of the Revised Code to the district 1409
responsible to pay tuition and shall pay that amount to the 1410
district providing the educational services to the child. 1411

(D) Tuition required to be paid under divisions (C) (2) and 1412
(3) (a) of this section shall be computed in accordance with 1413
section 3317.08 of the Revised Code. Tuition required to be paid 1414
under division (C) (3) (b) of this section shall be computed in 1415
accordance with section 3317.081 of the Revised Code. If a home 1416
fails to pay the tuition required by division (C) (3) (b) of this 1417
section, the board of education providing the education may 1418
recover in a civil action the tuition and the expenses incurred 1419
in prosecuting the action, including court costs and reasonable 1420
attorney's fees. If the prosecuting attorney or city director of 1421
law represents the board in such action, costs and reasonable 1422
attorney's fees awarded by the court, based upon the prosecuting 1423
attorney's, director's, or one of their designee's time spent 1424
preparing and presenting the case, shall be deposited in the 1425
county or city general fund. 1426

(E) A board of education may enroll a child free of any 1427
tuition obligation for a period not to exceed sixty days, on the 1428
sworn statement of an adult resident of the district that the 1429
resident has initiated legal proceedings for custody of the 1430
child. 1431

(F) In the case of any individual entitled to attend 1432
school under this division, no tuition shall be charged by the 1433
school district of attendance and no other school district shall 1434
be required to pay tuition for the individual's attendance. 1435
Notwithstanding division (B), (C), or (E) of this section: 1436

(1) All persons at least eighteen but under twenty-two 1437
years of age who live apart from their parents, support 1438
themselves by their own labor, and have not successfully 1439
completed the high school curriculum or the individualized 1440
education program developed for the person by the high school 1441

pursuant to section 3323.08 of the Revised Code, are entitled to 1442
attend school in the district in which they reside. 1443

(2) Any child under eighteen years of age who is married 1444
is entitled to attend school in the child's district of 1445
residence. 1446

(3) A child is entitled to attend school in the district 1447
in which either of the child's parents is employed if the child 1448
has a medical condition that may require emergency medical 1449
attention. The parent of a child entitled to attend school under 1450
division (F) (3) of this section shall submit to the board of 1451
education of the district in which the parent is employed a 1452
statement from the child's physician certifying that the child's 1453
medical condition may require emergency medical attention. The 1454
statement shall be supported by such other evidence as the board 1455
may require. 1456

(4) Any child residing with a person other than the 1457
child's parent is entitled, for a period not to exceed twelve 1458
months, to attend school in the district in which that person 1459
resides if the child's parent files an affidavit with the 1460
superintendent of the district in which the person with whom the 1461
child is living resides stating all of the following: 1462

(a) That the parent is serving outside of the state in the 1463
armed services of the United States; 1464

(b) That the parent intends to reside in the district upon 1465
returning to this state; 1466

(c) The name and address of the person with whom the child 1467
is living while the parent is outside the state. 1468

(5) Any child under the age of twenty-two years who, after 1469
the death of a parent, resides in a school district other than 1470

the district in which the child attended school at the time of 1471
the parent's death is entitled to continue to attend school in 1472
the district in which the child attended school at the time of 1473
the parent's death for the remainder of the school year, subject 1474
to approval of that district board. 1475

(6) A child under the age of twenty-two years who resides 1476
with a parent who is having a new house built in a school 1477
district outside the district where the parent is residing is 1478
entitled to attend school for a period of time in the district 1479
where the new house is being built. In order to be entitled to 1480
such attendance, the parent shall provide the district 1481
superintendent with the following: 1482

(a) A sworn statement explaining the situation, revealing 1483
the location of the house being built, and stating the parent's 1484
intention to reside there upon its completion; 1485

(b) A statement from the builder confirming that a new 1486
house is being built for the parent and that the house is at the 1487
location indicated in the parent's statement. 1488

(7) A child under the age of twenty-two years residing 1489
with a parent who has a contract to purchase a house in a school 1490
district outside the district where the parent is residing and 1491
who is waiting upon the date of closing of the mortgage loan for 1492
the purchase of such house is entitled to attend school for a 1493
period of time in the district where the house is being 1494
purchased. In order to be entitled to such attendance, the 1495
parent shall provide the district superintendent with the 1496
following: 1497

(a) A sworn statement explaining the situation, revealing 1498
the location of the house being purchased, and stating the 1499

parent's intent to reside there; 1500

(b) A statement from a real estate broker or bank officer 1501
confirming that the parent has a contract to purchase the house, 1502
that the parent is waiting upon the date of closing of the 1503
mortgage loan, and that the house is at the location indicated 1504
in the parent's statement. 1505

The district superintendent shall establish a period of 1506
time not to exceed ninety days during which the child entitled 1507
to attend school under division (F) (6) or (7) of this section 1508
may attend without tuition obligation. A student attending a 1509
school under division (F) (6) or (7) of this section shall be 1510
eligible to participate in interscholastic athletics under the 1511
auspices of that school, provided the board of education of the 1512
school district where the student's parent resides, by a formal 1513
action, releases the student to participate in interscholastic 1514
athletics at the school where the student is attending, and 1515
provided the student receives any authorization required by a 1516
public agency or private organization of which the school 1517
district is a member exercising authority over interscholastic 1518
sports. 1519

(8) A child whose parent is a full-time employee of a 1520
city, local, or exempted village school district, or of an 1521
educational service center, may be admitted to the schools of 1522
the district where the child's parent is employed, or in the 1523
case of a child whose parent is employed by an educational 1524
service center, in the district that serves the location where 1525
the parent's job is primarily located, provided the district 1526
board of education establishes such an admission policy by 1527
resolution adopted by a majority of its members. Any such policy 1528
shall take effect on the first day of the school year and the 1529

effective date of any amendment or repeal may not be prior to 1530
the first day of the subsequent school year. The policy shall be 1531
uniformly applied to all such children and shall provide for the 1532
admission of any such child upon request of the parent. No child 1533
may be admitted under this policy after the first day of classes 1534
of any school year. 1535

(9) A child who is with the child's parent under the care 1536
of a shelter for victims of domestic violence, as defined in 1537
section 3113.33 of the Revised Code, is entitled to attend 1538
school free in the district in which the child is with the 1539
child's parent, and no other school district shall be required 1540
to pay tuition for the child's attendance in that school 1541
district. 1542

The enrollment of a child in a school district under this 1543
division shall not be denied due to a delay in the school 1544
district's receipt of any records required under section 1545
3313.672 of the Revised Code or any other records required for 1546
enrollment. Any days of attendance and any credits earned by a 1547
child while enrolled in a school district under this division 1548
shall be transferred to and accepted by any school district in 1549
which the child subsequently enrolls. The state board of 1550
education shall adopt rules to ensure compliance with this 1551
division. 1552

(10) Any child under the age of twenty-two years whose 1553
parent has moved out of the school district after the 1554
commencement of classes in the child's senior year of high 1555
school is entitled, subject to the approval of that district 1556
board, to attend school in the district in which the child 1557
attended school at the time of the parental move for the 1558
remainder of the school year and for one additional semester or 1559

equivalent term. A district board may also adopt a policy 1560
specifying extenuating circumstances under which a student may 1561
continue to attend school under division (F)(10) of this section 1562
for an additional period of time in order to successfully 1563
complete the high school curriculum for the individualized 1564
education program developed for the student by the high school 1565
pursuant to section 3323.08 of the Revised Code. 1566

(11) As used in this division, "grandparent" means a 1567
parent of a parent of a child. A child under the age of twenty- 1568
two years who is in the custody of the child's parent, resides 1569
with a grandparent, and does not require special education is 1570
entitled to attend the schools of the district in which the 1571
child's grandparent resides, provided that, prior to such 1572
attendance in any school year, the board of education of the 1573
school district in which the child's grandparent resides and the 1574
board of education of the school district in which the child's 1575
parent resides enter into a written agreement specifying that 1576
good cause exists for such attendance, describing the nature of 1577
this good cause, and consenting to such attendance. 1578

In lieu of a consent form signed by a parent, a board of 1579
education may request the grandparent of a child attending 1580
school in the district in which the grandparent resides pursuant 1581
to division (F)(11) of this section to complete any consent form 1582
required by the district, including any authorization required 1583
by sections 3313.712, 3313.713, 3313.716, and 3313.718 of the 1584
Revised Code. Upon request, the grandparent shall complete any 1585
consent form required by the district. A school district shall 1586
not incur any liability solely because of its receipt of a 1587
consent form from a grandparent in lieu of a parent. 1588

Division (F)(11) of this section does not create, and 1589

shall not be construed as creating, a new cause of action or 1590
substantive legal right against a school district, a member of a 1591
board of education, or an employee of a school district. This 1592
section does not affect, and shall not be construed as 1593
affecting, any immunities from defenses to tort liability 1594
created or recognized by Chapter 2744. of the Revised Code for a 1595
school district, member, or employee. 1596

(12) A child under the age of twenty-two years is entitled 1597
to attend school in a school district other than the district in 1598
which the child is entitled to attend school under division (B), 1599
(C), or (E) of this section provided that, prior to such 1600
attendance in any school year, both of the following occur: 1601

(a) The superintendent of the district in which the child 1602
is entitled to attend school under division (B), (C), or (E) of 1603
this section contacts the superintendent of another district for 1604
purposes of this division; 1605

(b) The superintendents of both districts enter into a 1606
written agreement that consents to the attendance and specifies 1607
that the purpose of such attendance is to protect the student's 1608
physical or mental well-being or to deal with other extenuating 1609
circumstances deemed appropriate by the superintendents. 1610

While an agreement is in effect under this division for a 1611
student who is not receiving special education under Chapter 1612
3323. of the Revised Code and notwithstanding Chapter 3327. of 1613
the Revised Code, the board of education of neither school 1614
district involved in the agreement is required to provide 1615
transportation for the student to and from the school where the 1616
student attends. 1617

A student attending a school of a district pursuant to 1618

this division shall be allowed to participate in all student 1619
activities, including interscholastic athletics, at the school 1620
where the student is attending on the same basis as any student 1621
who has always attended the schools of that district while of 1622
compulsory school age. 1623

(13) All school districts shall comply with the "McKinney- 1624
Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for 1625
the education of homeless children. Each city, local, and 1626
exempted village school district shall comply with the 1627
requirements of that act governing the provision of a free, 1628
appropriate public education, including public preschool, to 1629
each homeless child. 1630

When a child loses permanent housing and becomes a 1631
homeless person, as defined in 42 U.S.C.A. 11481(5), or when a 1632
child who is such a homeless person changes temporary living 1633
arrangements, the child's parent or guardian shall have the 1634
option of enrolling the child in either of the following: 1635

(a) The child's school of origin, as defined in 42 1636
U.S.C.A. 11432(g) (3) (C); 1637

(b) The school that is operated by the school district in 1638
which the shelter where the child currently resides is located 1639
and that serves the geographic area in which the shelter is 1640
located. 1641

(14) A child under the age of twenty-two years who resides 1642
with a person other than the child's parent is entitled to 1643
attend school in the school district in which that person 1644
resides if both of the following apply: 1645

(a) That person has been appointed, through a military 1646
power of attorney executed under section 574(a) of the "National 1647

Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 1648
(1993), 10 U.S.C. 1044b, or through a comparable document 1649
necessary to complete a family care plan, as the parent's agent 1650
for the care, custody, and control of the child while the parent 1651
is on active duty as a member of the national guard or a reserve 1652
unit of the armed forces of the United States or because the 1653
parent is a member of the armed forces of the United States and 1654
is on a duty assignment away from the parent's residence. 1655

(b) The military power of attorney or comparable document 1656
includes at least the authority to enroll the child in school. 1657

The entitlement to attend school in the district in which 1658
the parent's agent under the military power of attorney or 1659
comparable document resides applies until the end of the school 1660
year in which the military power of attorney or comparable 1661
document expires. 1662

(G) A board of education, after approving admission, may 1663
waive tuition for students who will temporarily reside in the 1664
district and who are either of the following: 1665

(1) Residents or domiciliaries of a foreign nation who 1666
request admission as foreign exchange students; 1667

(2) Residents or domiciliaries of the United States but 1668
not of Ohio who request admission as participants in an exchange 1669
program operated by a student exchange organization. 1670

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 1671
3323.04, 3327.04, and 3327.06 of the Revised Code, a child may 1672
attend school or participate in a special education program in a 1673
school district other than in the district where the child is 1674
entitled to attend school under division (B) of this section. 1675

(I) (1) Notwithstanding anything to the contrary in this 1676

section or section 3313.65 of the Revised Code, a child under 1677
twenty-two years of age may attend school in the school district 1678
in which the child, at the end of the first full week of October 1679
of the school year, was entitled to attend school as otherwise 1680
provided under this section or section 3313.65 of the Revised 1681
Code, if at that time the child was enrolled in the schools of 1682
the district but since that time the child or the child's parent 1683
has relocated to a new address located outside of that school 1684
district and within the same county as the child's or parent's 1685
address immediately prior to the relocation. The child may 1686
continue to attend school in the district, and at the school to 1687
which the child was assigned at the end of the first full week 1688
of October of the current school year, for the balance of the 1689
school year. Division (I)(1) of this section applies only if 1690
both of the following conditions are satisfied: 1691

(a) The board of education of the school district in which 1692
the child was entitled to attend school at the end of the first 1693
full week in October and of the district to which the child or 1694
child's parent has relocated each has adopted a policy to enroll 1695
children described in division (I)(1) of this section. 1696

(b) The child's parent provides written notification of 1697
the relocation outside of the school district to the 1698
superintendent of each of the two school districts. 1699

(2) At the beginning of the school year following the 1700
school year in which the child or the child's parent relocated 1701
outside of the school district as described in division (I)(1) 1702
of this section, the child is not entitled to attend school in 1703
the school district under that division. 1704

(3) Any person or entity owing tuition to the school 1705
district on behalf of the child at the end of the first full 1706

week in October, as provided in division (C) of this section, 1707
shall continue to owe such tuition to the district for the 1708
child's attendance under division (I)(1) of this section for the 1709
lesser of the balance of the school year or the balance of the 1710
time that the child attends school in the district under 1711
division (I)(1) of this section. 1712

(4) A pupil who may attend school in the district under 1713
division (I)(1) of this section shall be entitled to 1714
transportation services pursuant to an agreement between the 1715
district and the district in which the child or child's parent 1716
has relocated unless the districts have not entered into such 1717
agreement, in which case the child shall be entitled to 1718
transportation services in the same manner as a pupil attending 1719
school in the district under interdistrict open enrollment as 1720
described in division (H) of section 3313.981 of the Revised 1721
Code, regardless of whether the district has adopted an open 1722
enrollment policy as described in division (B)(1)(b) or (c) of 1723
section 3313.98 of the Revised Code. 1724

(J) This division does not apply to a child receiving 1725
special education. 1726

A school district required to pay tuition pursuant to 1727
division (C)(2) or (3) of this section or section 3313.65 of the 1728
Revised Code shall have an amount deducted under division (C) of 1729
section 3317.023 of the Revised Code equal to its own tuition 1730
rate for the same period of attendance. A school district 1731
entitled to receive tuition pursuant to division (C)(2) or (3) 1732
of this section or section 3313.65 of the Revised Code shall 1733
have an amount credited under division (C) of section 3317.023 1734
of the Revised Code equal to its own tuition rate for the same 1735
period of attendance. If the tuition rate credited to the 1736

district of attendance exceeds the rate deducted from the 1737
district required to pay tuition, the department of education 1738
shall pay the district of attendance the difference from amounts 1739
deducted from all districts' payments under division (C) of 1740
section 3317.023 of the Revised Code but not credited to other 1741
school districts under such division and from appropriations 1742
made for such purpose. The treasurer of each school district 1743
shall, by the fifteenth day of January and July, furnish the 1744
superintendent of public instruction a report of the names of 1745
each child who attended the district's schools under divisions 1746
(C) (2) and (3) of this section or section 3313.65 of the Revised 1747
Code during the preceding six calendar months, the duration of 1748
the attendance of those children, the school district 1749
responsible for tuition on behalf of the child, and any other 1750
information that the superintendent requires. 1751

Upon receipt of the report the superintendent, pursuant to 1752
division (C) of section 3317.023 of the Revised Code, shall 1753
deduct each district's tuition obligations under divisions (C) 1754
(2) and (3) of this section or section 3313.65 of the Revised 1755
Code and pay to the district of attendance that amount plus any 1756
amount required to be paid by the state. 1757

(K) In the event of a disagreement, the superintendent of 1758
public instruction shall determine the school district in which 1759
the parent resides. 1760

(L) Nothing in this section requires or authorizes, or 1761
shall be construed to require or authorize, the admission to a 1762
public school in this state of a pupil who has been permanently 1763
excluded from public school attendance by the superintendent of 1764
public instruction pursuant to sections 3301.121 and 3313.662 of 1765
the Revised Code. 1766

(M) In accordance with division (B) (1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

Sec. 3313.649. (A) As used in this section:

(1) "Power of attorney" means a power of attorney created under section 3109.52 of the Revised Code.

(2) "Caretaker authorization affidavit" means an affidavit executed under section 3109.67 of the Revised Code.

(3) "Host family affidavit" means an affidavit executed under section 3109.846 of the Revised Code.

(B) The grandparent who is attorney in fact under a power of attorney ~~or~~, the grandparent that executed a caretaker authorization affidavit, or the person who executed a host family affidavit may enroll the child who is the subject of the power of attorney or affidavit in a school in the school district in which the grandparent or other person resides.

Unless another reason exists under the Revised Code to exclude 1796
the child, the child may attend the schools of the school 1797
district in which the grandparent or other person resides. 1798

Sec. 3313.672. (A) (1) At the time of initial entry to a 1799
public or nonpublic school, a pupil shall present to the person 1800
in charge of admission any records given the pupil by the public 1801
or nonpublic elementary or secondary school the pupil most 1802
recently attended; a certified copy of an order or decree, or 1803
modification of such an order or decree allocating parental 1804
rights and responsibilities for the care of a child and 1805
designating a residential parent and legal custodian of the 1806
child, as provided in division (B) of this section, if that type 1807
of order or decree has been issued; a copy of a power of 1808
attorney ~~or~~, caretaker authorization affidavit, or host family 1809
affidavit, if ~~either has any have~~ been executed with respect to 1810
the child pursuant to sections 3109.51 to 3109.80 and 3109.846 1811
of the Revised Code; and a certification of birth issued 1812
pursuant to Chapter 3705. of the Revised Code, a comparable 1813
certificate or certification issued pursuant to the statutes of 1814
another state, territory, possession, or nation, or a document 1815
in lieu of a certificate or certification as described in 1816
divisions (A) (1) (a) to (e) of this section. Any of the following 1817
shall be accepted in lieu of a certificate or certification of 1818
birth by the person in charge of admission: 1819

(a) A passport or attested transcript of a passport filed 1820
with a registrar of passports at a point of entry of the United 1821
States showing the date and place of birth of the child; 1822

(b) An attested transcript of the certificate of birth; 1823

(c) An attested transcript of the certificate of baptism 1824
or other religious record showing the date and place of birth of 1825

the child; 1826

(d) An attested transcript of a hospital record showing 1827
the date and place of birth of the child; 1828

(e) A birth affidavit. 1829

(2) If a pupil requesting admission to a school of the 1830
school district in which the pupil is entitled to attend school 1831
under section 3313.64 or 3313.65 of the Revised Code has been 1832
discharged or released from the custody of the department of 1833
youth services under section 5139.51 of the Revised Code just 1834
prior to requesting admission to the school, no school official 1835
shall admit that pupil until the records described in divisions 1836
(D) (4) (a) to (d) of section 2152.18 of the Revised Code have 1837
been received by the superintendent of the school district. 1838

(3) No public or nonpublic school official shall deny a 1839
protected child admission to the school solely because the child 1840
does not present a birth certificate described in division (A) 1841
(1) of this section, a comparable certificate or certification 1842
from another state, territory, possession, or nation, or another 1843
document specified in divisions (A) (1) (a) to (e) of this section 1844
upon registration for entry into the school. However, the 1845
protected child, or the parent, custodian, or guardian of that 1846
child, shall present a birth certificate or other document 1847
specified in divisions (A) (1) (a) to (e) of this section to the 1848
person in charge of admission of the school within ninety days 1849
after the child's initial entry into the school. 1850

(4) Except as otherwise provided in division (A) (2) or (3) 1851
of this section, within twenty-four hours of the entry into the 1852
school of a pupil described in division (A) (1) of this section, 1853
a school official shall request the pupil's official records 1854

from the public or nonpublic elementary or secondary school the 1855
pupil most recently attended. If the public or nonpublic school 1856
the pupil claims to have most recently attended indicates that 1857
it has no record of the pupil's attendance or the records are 1858
not received within fourteen days of the date of request, or if 1859
the pupil does not present a certification of birth described in 1860
division (A)(1) of this section, a comparable certificate or 1861
certification from another state, territory, possession, or 1862
nation, or another document specified in divisions (A)(1)(a) to 1863
(e) of this section, the principal or chief administrative 1864
officer of the school shall notify the law enforcement agency 1865
having jurisdiction in the area where the pupil resides of this 1866
fact and of the possibility that the pupil may be a missing 1867
child, as defined in section 2901.30 of the Revised Code. 1868

(B)(1) Whenever an order or decree allocating parental 1869
rights and responsibilities for the care of a child and 1870
designating a residential parent and legal custodian of the 1871
child, including a temporary order, is issued resulting from an 1872
action of divorce, alimony, annulment, or dissolution of 1873
marriage, and the order or decree pertains to a child who is a 1874
pupil in a public or nonpublic school, the residential parent of 1875
the child shall notify the school of those allocations and 1876
designations by providing the person in charge of admission at 1877
the pupil's school with a certified copy of the order or decree 1878
that made the allocation and designation. Whenever there is a 1879
modification of any order or decree allocating parental rights 1880
and responsibilities for the care of a child and designating a 1881
residential parent and legal custodian of the child that has 1882
been submitted to a school, the residential parent shall provide 1883
the person in charge of admission at the pupil's school with a 1884
certified copy of the order or decree that makes the 1885

modification. 1886

(2) Whenever a power of attorney is executed under 1887
sections 3109.51 to 3109.62 of the Revised Code that pertains to 1888
a child who is a pupil in a public or nonpublic school, the 1889
attorney in fact shall notify the school of the power of 1890
attorney by providing the person in charge of admission with a 1891
copy of the power of attorney. Whenever a caretaker 1892
authorization affidavit is executed under sections 3109.64 to 1893
3109.73 of the Revised Code that pertains to a child who is in a 1894
public or nonpublic school, the grandparent who executed the 1895
affidavit shall notify the school of the affidavit by providing 1896
the person in charge of admission with a copy of the affidavit. 1897
Whenever a host family affidavit is executed under section 1898
3109.846 of the Revised Code that pertains to a child who is in 1899
a public or nonpublic school, the host family who executed the 1900
affidavit or the qualified nonprofit organization that assisted 1901
in the execution of the affidavit shall notify the school of the 1902
affidavit by providing the person in charge of admission with a 1903
copy of the affidavit. 1904

(C) If, at the time of a pupil's initial entry to a public 1905
or nonpublic school, the pupil is under the care of a shelter 1906
for victims of domestic violence, as defined in section 3113.33 1907
of the Revised Code, the pupil or the pupil's parent shall 1908
notify the school of that fact. Upon being so informed, the 1909
school shall inform the elementary or secondary school from 1910
which it requests the pupil's records of that fact. 1911

(D) Whenever a public or nonpublic school is notified by a 1912
law enforcement agency pursuant to division (D) of section 1913
2901.30 of the Revised Code that a missing child report has been 1914
filed regarding a pupil who is currently or was previously 1915

enrolled in the school, the person in charge of admission at the 1916
school shall mark that pupil's records in such a manner that 1917
whenever a copy of or information regarding the records is 1918
requested, any school official responding to the request is 1919
alerted to the fact that the records are those of a missing 1920
child. Upon any request for a copy of or information regarding a 1921
pupil's records that have been so marked, the person in charge 1922
of admission immediately shall report the request to the law 1923
enforcement agency that notified the school that the pupil is a 1924
missing child. When forwarding a copy of or information from the 1925
pupil's records in response to a request, the person in charge 1926
of admission shall do so in such a way that the receiving 1927
district or school would be unable to discern that the pupil's 1928
records are marked pursuant to this division but shall retain 1929
the mark in the pupil's records until notified that the pupil is 1930
no longer a missing child. Upon notification by a law 1931
enforcement agency that a pupil is no longer a missing child, 1932
the person in charge of admission shall remove the mark from the 1933
pupil's records in such a way that if the records were forwarded 1934
to another district or school, the receiving district or school 1935
would be unable to discern that the records were ever marked. 1936

(E) As used in this section: 1937

(1) "Protected child" means a child placed in a foster 1938
home, as that term is defined in section 5103.02 of the Revised 1939
Code, or in a residential facility. 1940

(2) "Residential facility" means a group home for 1941
children, children's crisis care facility, children's 1942
residential center, residential parenting facility that provides 1943
twenty-four-hour child care, county children's home, or district 1944
children's home. 1945

Sec. 5153.164. If an investigation of a report of child 1946
abuse or neglect under section 2151.421 of the Revised Code does 1947
not result in the filing of a complaint under section 2151.27 of 1948
the Revised Code, the public children services agency that 1949
conducted the investigation shall inform the person subject to 1950
the investigation of respite care and other available support 1951
services and benefits for families in crisis. 1952

Section 2. That existing sections 3109.04, 3109.78, 1953
3109.79, 3109.80, 3310.51, 3313.64, 3313.649, and 3313.672 of 1954
the Revised Code are hereby repealed. 1955